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AN

A P P E N D I X

TO THE

SEVENTEENTH EDITION

OF

Dr. Burn's Justice of the Peace,
and Parish Officer.

CONTAINING

All the ACTS of PARLIAMENT and ADJUDGED CASES
which relate to the Office of a JUSTICE of the PEACE,
from 32 GEO. III. to the present Time.

By JOHN BURN, Esq.

ONE OF HIS MAJESTY'S JUSTICES OF THE PEACE FOR THE
COUNTIES OF WESTMORLAND AND CUMBERLAND.

L O N D O N.

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1795.

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ADVERTISEMENT.

IN this Appendix, the Acts of Parliament and Adjudged Cases are brought down to the present Time.

The General Form under Title CONVICTION having been observed by the Lord Chief Justice* to be in one instance erroneous, a corrected General Form of Conviction is now given, together with the rest of that Title revised and considerably enlarged, upon the plan of the late Author, by a Gentleman at the Bar†: And also such new Precedents under other Heads, as were deemed necessary and consistent with the Design of the original Work.

The set of Precedents respecting the Excise laws, recommended by the high Authority above mentioned, is also introduced into this Appendix.

* *K. v. Benwell, Cas. by Durnf. and East, 6 V. 76.*

† *THOMAS JERVIS, Esq.*

In the Press,

A NEW EDITION (being the Eighteenth) of Dr. BURN'S JUSTICE OF THE PEACE and PARISH OFFICER, corrected and improved, in which this Appendix will be incorporated, and which will include the Acts of the present Session 36 Geo. III. (1796.) and the Adjudged Cases to the Time of Publication.

ALSO,

A NEW EDITION (being the Sixth) of Dr. BURN'S ECCLESIASTICAL LAW, with very considerable Additions and Improvements.

Alehouses.

BY 35 G. 3. c. 113. so much of 5 G. 3. c. 46. as relates to the penalties for selling ale without licence is repealed, and other penalties are inflicted in lieu thereof, as follows: After the 20th Sept. 1795, every person who shall sell ale or beer, or any other exciseable liquors, by retail, without being duly licensed, and shall be convicted thereof, shall forfeit 20l. and also the costs and expences attending the conviction; and for a second offence shall moreover be rendered incapable of being afterwards licensed to keep an alehouse, or to sell ale, beer, or other exciseable liquors, by retail. *s. 1.*

Former penalties repealed.

New penalties inflicted.

And one justice may hear and determine the same in a summary way, who upon information (A) exhibited or complaint made to him, may summon (B) the party accused, and also the witnesses on either side; and upon appearance, or contempt by not appearing, shall proceed to hear the matter, and examine the witnesses on oath, and to give judgment therein; and upon confession, or oath of one witness, may convict (C) the party accused, and if he be then present, (or if absent,) within three days after notice either personally, or left for him at the place where the offence was committed, shall not pay the said penalty, together with the costs, to be ascertained by such justice; the same shall be levied by distress (D) of the goods and chattels of such offender wheresoever found within the jurisdiction of such justice, or in any entered place of such offender, in the like manner as directed by 27 G. 2. c. 20. & 33 G. 3. c. 55. as far as the same relate to executing warrants of distress, as fully as if the powers in the said acts had been repeated herein: and shall be applied half to the informer and half to the poor, in such manner as such justice shall direct; and if a return shall be made that sufficient distress cannot be found whereon to levy such penalty and costs, any justice of the county or place where such offence was committed, upon producing to him such warrant and return, or (if such justice shall be of any other county or

Penalties how to be recovered and applied.

B

place,

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place, then upon oath made of the hand writing of the justice granting such warrant, and of the truth of such return) may commit (E) such offender to the common gaol or other prison within his jurisdiction, for any term not exceeding six nor less than three calendar months, unless such penalty and costs be sooner paid. *f. 2. 5.*

Distress may be sold within four days, on request.

Allowance to persons executing warrants, &c.

Provided, that on the request of the owner, such distress may be sold within the four days allowed by the said act of 27 G. 3. *f. 3.*

And there shall be allowed to the officer executing such warrant of distress, for the safe keeping of the goods distrained, any sum not exceeding 5 s. *per day*, and for every assistant not exceeding 2 s. *per day* for each, as such justice shall direct, on proof on oath that there was sufficient cause for calling in such assistance. *f. 4.*

What shall be deemed legal notice to persons summoned.

And whereas many persons carry on the trade of alehouse keepers and victuallers, and retailers of beer and ale, without licence, and make entry of places for keeping the same, by feigned names, and such beer and ale is frequently retailed in houses and places detached from their place of residence, whereby the law hath been evaded; it is enacted, that where any summons shall be issued, for any person to appear to answer to any complaint for selling by retail any beer, ale, or other exciseable liquor, without licence, the direction of such summons to such person by the name he made such entry, or is usually known, whether the same be his real name or not, and leaving such summons at such house or place where such offence was committed, and affixing a copy thereof on the door or other conspicuous part on the outside thereof, (the same being proved on the oath of the person who served or affixed up such summons,) shall be deemed a sufficient notice or summons to all intents and purposes. *f. 6.*

Retailers to make entry, on penalty of 50 l.

And every alehouse-keeper, victualler, or retailer of beer or ale, who shall have, or receive into his custody or power, any beer or ale to sell by retail, shall, three days at least before he begin to sell or dispose thereof, make entry in writing at the next excise office, of every house, outhouse, cellar, vault, room, storehouse, or other place to be used for keeping or selling the same; which said entry shall set forth his true name, and whether he be an alehouse-keeper, victualler, or retailer; and such person shall be deemed the occupier and proprietor of every such place, so long as such entry shall remain in force; on pain of forfeiting 50 l. to be recovered, levied, mitigated and distributed as by the laws of excise: and every such storehouse, cellar, room, or place

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so used without being so entered, shall be deemed private and concealed places, within the meaning of this and every other act. *f. 7.*

And all exciseable liquors and other goods and chattels found in any house or place where any such offence shall have been committed, or in any place belonging thereto or occupied therewith, or which hath been entered as aforesaid, by whom, or by what title soever such goods shall be claimed, shall be liable to such distress in like manner as if such offender had been the real owner. *f. 8.*

Goods found where any offence is committed liable to distress.

And every person who shall make such entry as aforesaid, shall be deemed a seller by retail; and any justice may summon before him, or before any other justice, any entry keeper, gauger, or other excise officer having the custody of entries, who shall, when required, produce every entry made within his division, and also his stock book and other account of survey, and any such justice may examine on oath any such officer respecting such entry, or respecting the stock of any such person; and if it shall appear that any person hath made entry as aforesaid, or is surveyed as an alehouse-keeper, victualler, or retailer, and has not received, or is not entitled to the abatement allowed to common brewers, then such justice may summon such person to produce his licence to sell beer and ale, and if he shall not at the return of such summons appear, or appearing shall not produce his licence, such justice (on proof of due service of such summons if such person shall not appear) may adjudge him guilty of selling beer or ale by retail without licence. *f. 9.*

Who shall be deemed retailers.

Excise officers may be summoned to produce entries and stock books,

and retailers to produce licences.

And if any person shall be summoned as a witness, and shall neglect or refuse to appear at the time and place appointed, without a reasonable excuse, (to be allowed by such justice,) or appearing shall refuse to be examined on oath and give evidence, he shall forfeit 10*l.* to be levied by distress, to be applied to the poor where such offence was committed in such manner as such justice shall direct; and for want of sufficient distress, such offender shall be committed to the common gaol or other prison, for any term not exceeding six calendar months, unless such penalty shall be sooner paid. *f. 10.*

Witnesses not appearing forfeit 10*l.*

And if any person, after service of any summons to appear to any charge of selling ale or beer, or other exciseable liquors, without a licence, shall convey away any goods or chattels herein before made liable to distress, from the house or place wherein such offence shall have been committed, or belonging thereto or occupied therewith, or which hath

Goods conveyed away may be distrained within 30 days wherever found.

Alehouses.

Warrants may
be indorsed.

been entered as aforesaid; it shall be lawful for the officer to whom such warrant is directed, or other person acting in his aid, within 30 days after such conveying away, to seize the same wherever they may be found, and dispose of them in such manner as if they had been distrained on the premises. And if carried out of the jurisdiction of such justice, any justice of the county, city, liberty, or place into which the same shall be so conveyed, is required, on proof on oath of the hand-writing of such justice originally signing such warrant, to indorse his name on the back thereof, which shall be sufficient authority to the person bringing such warrant, and to all other persons to whom the same was originally directed, to execute the same, and to proceed in such manner as if such goods had been seized within the jurisdiction of the justice who signed the original warrant. *§. 11.*

Appeal.

And if any person shall think himself aggrieved by the judgment of such justice, he may appeal against any such conviction to the next sessions, (and such justice shall make known the same to such person at the time of such conviction,) unless such sessions be holden within six days next after such conviction, and in such case to the next subsequent sessions and not afterwards, such person, at the time of such conviction, giving to such justice notice in writing of his intention to appeal, and also giving security, to the satisfaction of such justice, for the payment of the penalty and costs in case such judgment be affirmed; and also further entering into a recognizance at the time of such notice, with sufficient sureties, to try the appeal, abide the judgment, and pay such costs as shall be awarded at such sessions. And the judgment of such sessions shall be final and conclusive to all intents and purposes whatsoever; and if such sessions shall adjudge such appeal to be frivolous or vexatious, they may give costs to the party aggrieved by such appeal, not exceeding 5*l.* in the whole. *§. 12.*

Conviction.

And the conviction shall be in the form or to the effect expressed in 26 G. 2. c. 31. *mutatis mutandis* as the case may be, and shall be good without stating the case, or facts, or evidence, in any more particular manner (C), and shall be certified to the next sessions to be filed among the records. *§. 13.*

Penalties may
be mitigated for
the first offence.

Provided, that where it shall be proved to the satisfaction of such justice, that such offender hath not been before convicted of any offence against this act, such justice may mitigate any penalty hereby imposed, in case of such first offence, but not otherwise, and not to less than 10*l.* *§. 14.*

And

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And any inhabitant of any parish, township, or place in which any such offence shall be committed, shall be deemed a competent witness notwithstanding. *f.* 15.

Inhabitants may be witnesses.

Provided always, that all penalties within this act, shall be sued for and determined within six months after the offence is committed. *f.* 16.

Prosecutions to be in 6 months.

Provided also, that nothing herein shall extend to prohibit any person from selling ale or beer in booths or other places, at the time and place of holding any lawful and accustomed fair, in like manner as they were before authorized to do. *f.* 17.

Selling in fairs.

A. Information for selling ale without licence; on the 35 G. 3. c. 113.

County of } *B* *E*t remembered, that on the — day of —
— in the — year of the reign of our sovereign
lord George the third, by the grace of God, king of Great
Britain, &c. and in the year of our Lord —, at — in the
said county of —, A. I. of — in the county of —
gentleman, who prosecutes as well for the poor of the parish of
— in the said county of — as for himself in this be-
half, in his proper person cometh before me I. P. esquire, one
of the justices of our said lord the king, assigned to keep the peace
of our said lord the king in and for the said county of —,
and also to hear and determine divers felonies, trespasses, and
other misdemeanors in the said county committed, and as well
for the poor of the said parish of — in the said county of
— as for himself, giveth me the said justice to understand
and be informed, that after the 20th day of September 1795,
and within six months next before the day of exhibiting the
said information, to wit, on the — day of — in the
year of our Lord one thousand seven hundred and —, at the
parish of — in the said county of —, one A. O. of
the parish of — in the county of — yeoman, did
sell ale, or beer, or any other exciseable liquors, (particulariz-
ing which of them, as the case shall happen to be,) by
retail, in the house of him the said A. O. situate, standing and
being in the said parish of — in the said county of —
without being licensed thereto according to law; whereby,
and by force of the statute in such case made and provided, the
said A. O. hath forfeited for his said offence the sum of twenty
pounds, and also the costs and expences attending the convicting
the said A. O. of the said offence, one moiety of the said penalty
of 20l. to him the said A. I. and the other moiety thereof to
the use of the poor of the said parish of — (being the parish

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in which the said offence was committed): and that A. W. of the parish of — in the county of — yeoman is a material witness to be examined concerning the premises: and the said A. I. who prosecutes as aforesaid, prayeth that the said A. O. may be convicted of the said offence, and that one moiety of the said penalty of 20l. may be adjudged to him the said A. I. and the other moiety thereof to the use of the poor of the said parish of —, according to the form of the statute in such case made and provided; and that the said A. O. may be summoned to answer the said information, and make his defence thereto, and the said A. W. to testify his knowledge therein, before me the justice aforesaid.

B. Summons of a person for selling ale without licence; on the 35 G. 3. c. 113.

County of } To A. O. and to the constable of — in
 — } the said county.

WHEREAS an information hath been this day exhibited by A. I. of — in the county of — gentleman, who prosecutes as well for the poor of the parish of — as for himself in this behalf, before me I. P. esquire, one of the justices of our said lord the king, assigned to keep the peace of our said lord the king in and for the said county of —, and also to hear and determine divers felonies, trespasses, and other misdemeanors in the said county committed, setting forth, that after the 20th day of September 1795, and within six months next before the day of exhibiting the said information, to wit, on the — day of — in the year of our Lord one thousand seven hundred and —, at the parish of — in the said county of —, you A. O. of the parish of — in the county of — yeoman did sell ale, or beer, or any other exciseable liquors, (particularizing which of them, as the case shall happen to be,) by retail, in the house of you the said A. O. situate, standing and being in the said parish of — in the said county of — without being licensed thereto according to law; whereby, and by force of the statute in such case made and provided, you the said A. O. have forfeited for your said offence the sum of 20l. and also the costs and expences attending the convicting you thereof, one moiety of the said penalty of 20l. to him the said A. I. and the other moiety thereof to the use of the poor of the said parish of — (being the parish in which the said offence was committed), and praying that you the said A. O. may be convicted of the said offence, and that one moiety of the said penalty of 20l. may be adjudged to him the said A. I. and the other moiety thereof to the use of the poor of the said parish of —, according to the form of the statute

Atchoufes.

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Statute in such case made and provided: These are therefore to require you the said A. O. to appear before me on the — day of — next ensuing, at the hour of — in the forenoon of the same day, at the house of — situate in — in the said county of — to answer the matter of complaint contained in the said information, and to shew cause, if any you have, why you should not be convicted of the said offence charged in the said information; and I do authorize you the said A. C. to serve this my summons, and do require you the said A. C. to attend me at the time and place last above mentioned, then and there to make a return to me of the execution of this my summons. Herein you the said A. C. fail not. Given under my hand and seal, at — in the county of —, the — day of — in the — year of the reign of our said sovereign lord the now king, and in the year of our Lord one thousand seven hundred and —.

Note, a summons for a witness, in behalf of either of the parties, may easily be extracted from the premises.

C. Conviction for selling ale without licence; on the 35 G. 3. c. 113. specially directed by the 26 G. 2. c. 31.

Middlesex. { A. B. is convicted on his (or her) own confession (or, on the oath of —) of having sold ale, beer, or other liquors, in the parish of — in this county, on the — day of — without being licensed thereto according to law (or, after being disabled to sell, as the case may be). This is the first (or second) offence. Given under my hand and seal this — day of —.

D. Warrant of Distress on nonpayment of the penalty for selling ale without licence; on the 35 G. 3. c. 113.

County of { To the constable of — in the said county.

WHEREAS by a certain conviction, under my hand and seal, bearing date the — day of — in the year of our Lord —, A. O. of — in the county of — yeoman, was and is duly convicted before me J. P. esquire, one of the justices of our lord the king, assigned to keep the peace of our said lord the king in and for the said county of —, and also to hear and determine divers felonies, trespasses, and other misdemeanors in the said county committed, on his (or her) own con-

Alehouses.

feffion, (or, on the oath of ———) of having sold ale, beer, or
 other liquors, (specifying which of them, as the case shall
 happen to be,) in the parish of ——— in the said county, of ———
 on the ——— day of ——— without being licensed thereto accord-
 ing to law, (or, after being disabled to sell, as the case may
 be,) whereby he forfeited the sum of 20l. besides the costs and
 expences attending the said conviction, which costs and expences
 I have ascertained and assessed, and do hereby ascertain and assess,
 at the sum of ——— pursuant to the statute in such case made and
 provided. (If the conviction was made in the absence of the
 party say, And whereas the said A. O. on the ——— day of ———
 last past had due notice of the said conviction, but hath hitherto
 altogether neglected and refused to pay, and hath not yet paid, the
 said several sums of ——— and ——— or any part thereof respec-
 tively): These are therefore to command you to distrain the goods
 and chattels of the said A. O. wheresoever they shall or may be found
 within my jurisdiction, and also any goods or chattels found or
 being in the house of the said A. O. situate, standing and being
 in the said parish of ——— in the said county of ——— (being
 the house in which the said offence was committed), or which
 shall be found or be in any house, outhouse, cellar, vault, or
 other storehouse, belonging thereto, or occupied therewith, and
 on the goods and chattels so distrained to levy the said several
 sums of 20l. and ———, and if within the space of five days
 next after such distress by you made, the said several sums of 20l.
 and ——— together with the reasonable charges of keeping the
 said distress, to be allowed by me the said justice, shall not be paid,
 that then you do sell the said goods and chattels so by you dis-
 trained as aforesaid, and out of the money arising by such sale,
 that you do pay one moiety of the said penalty or sum of 20l.
 and also the said sum of ——— (being the costs and expences afore-
 said), to A. I. of ——— in the county of ——— yeoman, who
 informed me of the said offence, and the other moiety of the said
 penalty or sum of 20l. to the overseers of the poor of the parish
 of ——— in the said county of ——— to the use of the poor
 of the said parish (being the parish in which the said offence was
 committed), returning to him the said A. O. the overplus on
 demand, the reasonable charges of taking, keeping, and selling
 the said distress being first deducted: and you are hereby com-
 manded to certify to me the said justice, on the ——— day of ———
 now next ensuing, what you shall do by virtue of this my war-
 rant. Given under my hand and seal, at ——— in the said coun-
 ty of ——— the ——— day of ——— in the ——— year
 of the reign of our said sovereign lord the now king, and in the
 year of our Lord ———.

Return

Alehouses.

Return of Nulla Bona to be indorsed upon the warrant.

I do hereby certify to J. P. the justice within named, that the within-named A. O. hath not any goods or chattels belonging to him the said A. O. within the jurisdiction of the said justice, and that there are not any goods or chattels found or being in the house of the said A. O. situate, standing and being in the said parish of — in the said county of — (being the house in which the offence within mentioned was committed), or in any house, outhouse, cellar, vault, or other storehouse, belonging thereto, or occupied therewith, whereof I can levy the within mentioned several sums of 20l. and — or any part thereof respectively, as within I am commanded. Dated this — day of — in the year of our Lord one thousand seven hundred and —.

A. C. Constable of —
within named.

E. Commitment on non-payment of the penalty for selling ale without licence; on the 35 G. 3. c. 113.

County of { To the constable of — in the said county,
— { and to the keeper of his majesty's gaol
at — in the said county.

WHEREAS by a certain conviction, under my hand and seal, bearing date the — day of — in the year of our Lord —, A. O. of — in the county of — yeoman was and is duly convicted before me J. P. esquire, one of the justices of our lord the king, assigned to keep the peace of our said lord the king in and for the said county of —, and also to hear and determine divers felonies, trespasses, and other misdemeanors in the said county committed, on his (or her) own confession, (or on the oath of —) of having sold ale, beer, or other liquors, (specifying which of them, as the case shall happen to be,) in the parish of — in the said county of — on the — day of — without being licensed thereto according to law, (or, after being disabled to sell, as the case may be,) whereby he forfeited the sum of 20l. besides the costs and expences attending the said conviction, which costs and expences I have ascertained and assessed at the sum of — pursuant to the statute in such case made and provided; and whereas the said A. O. on the — day of — last past, had due notice of the said conviction, but hath hitherto altogether neglected and refused to pay, and hath not yet paid, the said several sums of 20l. and — or any part thereof respectively; and
whereas

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whereas on the — day of — last past, I did issue my warrant to the constable of — commanding him to distrain the goods and chattels of the said A. O. wheresoever they should or might be found within my jurisdiction, and also any goods or chattels found or being in the house of the said A. O. situate, standing and being in the said parish of — in the said county of — (being the house in which the said offence was committed), or which should be found or be in any house, outhouse, cellar, vault, or other storehouse, belonging thereto, or occupied therewith, and that the said constable should certify to me the said justice, on the — day of — now last past, what he should do by virtue of my said warrant; and whereas it duly appears to me by the return of A. C. constable of — aforesaid, dated the — day of — last past, that the said A. O. hath not any goods or chattels belonging to him the said A. O. within the jurisdiction of me the said justice, and that there are not any goods or chattels found or being in the house of the said A. O. situate, standing and being in the said parish of — in the said county of — (being the house in which the said offence was committed), or in any house, outhouse, cellar, vault, or other storehouse, belonging thereto, or occupied therewith, whereof he could levy the said several sums of 20l. and — or any part thereof respectively. × These are therefore to command you the said constable of — aforesaid, to apprehend him the said A. O. and him safely to convey to the said gaol at — aforesaid, and there to deliver him to the said keeper thereof, together with this precept. And I do hereby command you the said keeper of the said gaol to receive into your custody in the said gaol him the said A. O. and him there safely to keep for the space of six calendar months, unless the said several sums of 20l. and — shall be sooner paid and satisfied; and for your so doing this shall be your sufficient warrant. Given under my hand and seal, at — in the county of — the — day of — in the — year of the reign of our said sovereign lord the now king, and in the year of our Lord —.

Where the warrant of commitment is issued by a justice of a different county to that where the offender was convicted, the following addition to it should be made at the above ×. And whereas it duly appears to me, upon the oath of — the said constable of — aforesaid, that the names J. P. subscribed to the said warrant of distress are of the proper handwriting of the said J. P. the justice granting the same, and that the said return indorsed on the said warrant of distress is a true return thereto. The other alterations that would be necessary are sufficiently obvious.

Apprentices.

T 34 G. 3. *Ex parte Mary Ann Davis.* An *habeas corpus* was moved for to bring up this person, that she might be discharged from certain indentures of apprenticeship entered into between herself and *Edward Whitehouse* esq. whereby she bound herself to him as an apprentice for seven years, being therein described as aged 14 years, but in fact being upwards of 17 at the time of binding, and being now upwards of 21 the indentures still subsisting. This application was grounded upon the principle that infants cannot be bound beyond 21, but that they may dissent after they arrive at that age. *L. Kenyon* Ch. J. It is clear that the apprentice must be discharged. Every indenture of an infant is voidable at his election; and in such cases the master must trust to the covenant of those who engage for the infant. But where the binding is under the authority of an act of parliament, that takes away the power of electing to vacate the indentures. But I know of no act which prohibits the party in a case like the present to make such election upon her coming of age. According to the argument of the counsel against the rule, an infant who improvidently bound himself till the age of 50 or upwards, would be bound to serve till that time; but it is impossible to support such a proposition. This apprentice ought not to have been bound longer than till she was 21, and we ought now to discharge her. The other judges concurred. *Durnf. and East*, 5 V. 715.

Infant bound when under age is entitled to be discharged at 21.

By 33 G. 3. c. 55. Two justices at any special or petty sessions, upon complaint upon oath by or on the behalf of any parish apprentice, or other apprentice upon whose binding out not more than 10l. was paid, of any ill usage by his master, (such master having been duly summoned to appear and answer such charge,) may impose, upon conviction, any reasonable fine not exceeding 40s. upon such master, as a punishment for such ill usage; and if not paid, may by their warrant levy the same by distress and sale of the goods of such offender, rendering to him the overplus (if any) after deducting such fine and the charges of such distress and sale; to be applied at the discretion of such justices, either to the use of the poor, or for the use and benefit of such apprentice towards a recompence for the injury he may have sustained by reason of such ill usage; and for want of such distress, such offender may be committed

Two justices at a petty sessions may discharge apprentices.

Apprentices.

mitted to the house of correction for any time not exceeding ten days. *f. 1.*

Persons aggrieved may appeal to the next sessions, upon giving ten days notice thereof. *id.*

And no person acting under any such warrant, shall be deemed a trespasser *ab initio* by reason of any irregularity in such warrant or proceedings thereupon. *f. 2.*

Attorney.

Stamp duty.

BY 34 G. 3. c. 14. every person who shall become bound to serve as a clerk in order to his admission as a solicitor or attorney in any of the courts at *Westminster*, shall be charged an additional stamp duty of 100l. And in any of the courts of great session in *Wales*, or in the counties palatine of *Chester*, *Lancaster*, or *Durham*, or in any court of record in *England* holding pleas, where the debt or damage shall amount to 40s. and not in any of the said courts at *Westminster*, a stamp duty of 50l. *f. 1.*

Indenture to be inrolled, and affidavit made within six months.

And no person who shall be bound to serve as a clerk as aforesaid, shall be admitted to be a solicitor or attorney in any of the said courts, unless the indenture or other writing containing such contract duly stamped according to the directions of this act, shall be inrolled or registered with the proper officer to be appointed for that purpose in the court wherein such person shall propose to be afterwards admitted a solicitor or attorney by virtue of his service under such contract, together with an affidavit of the time of the execution of such contract by such clerk; and if not so inrolled or registered within six months next after the execution thereof, together with such affidavit of the time of the execution of such contract, then the service of such clerk under such indenture or writing, shall be deemed to commence from the time of such inrollment or registry only, and not from the execution thereof. *f. 2.*

Persons having paid the duty of 100l. need pay no further duty.

And every such clerk, previous to his being permitted to practise, shall make an affidavit of the due payment of the said duty, and shall insert therein the sum paid in respect thereof, and also shall specify the name and place of abode of the person with whom such contract was made, and the time of the execution thereof, and of inrolling or registering the same; and if he have been previously admitted

ted. in some other court, shall also specify the court in which he has been so admitted, and the time; which shall be filed with the proper officer, and shall be produced and openly read in court, before he shall be enrolled and registered. *f. 3.*

Provided, that any person who shall be admitted in any of the courts at *Westminster*, and who shall have paid the duty of 100l. may be admitted in any other of the before mentioned courts without payment of any further duty.

f. 5.

Provided also, that articulated clerks having paid the duty by this act imposed, upon the event of such attorney or solicitor to which he was bound dying, or leaving off practice, or of such articles being cancelled or discharged, or on any other event before the end of the 5 years, shall not be subject to any further duty, for any new contracts with other masters. *f. 8.*

New contracts with other masters, not subject to further duty.

Bastards.

H. 35 G. 3. K. v. Price. At the quarter sessions at *Worcester*, the defendant was charged with being the father of a bastard child, and was then present in court in pursuance of a recognizance entered into on a prior day before a justice, to appear at the then next sessions, &c. and to perform such order as should be made in pursuance of the 18 *Eliz.* The sessions having heard the complaint, &c. on oath, adjudged the defendant to be the father of the said child, and made an order upon him to pay 20s. for the expences of the lying-in, and for the maintenance of the child till that time, and the further sum of 1s. 6d. weekly from that time so long as the child should continue chargeable. And also further ordered the defendant to find sufficient sureties for the performance of that order; and upon his alledging that he was not compellable to find such sureties, they committed him to the house of correction until he should find sufficient sureties; and also directed, that the recognizance of the defendant for his appearance and conformity at those sessions should be discharged. The above order having been removed by *certiorari*, a rule was obtained calling on the prosecutors to shew cause why that part of it by which the defendant was committed

The sessions cannot discharge a recognizance taken before a justice for the father's appearance at the sessions and to abide the order; nor compel him to give fresh sureties.

committed for want of sureties, should not be quashed. L. *Knyon* Ch. J. said, that the case of *K. v. Fox* decided this case (and his lordship then read a note of that case from a manuscript of his own). And added, as that case was determined on great consideration, and by such able judges, and is directly in point, it ought to govern the present case. Therefore so much of this order of sessions as respects the giving of security for the performance of the order and the discharging of the defendant's recognizance must be quashed, and the rest of the order confirmed. *Durnf. and East*, 6 V. 147.

* Mother dying
before the order
is made,

M. 34 G. 3. K. v. Ravenstone. On the appearance of *W. Start* (on his recognizance taken before a magistrate for *Leicestershire*, to answer a charge against him for being the putative father of a bastard child, of which one *S. Hags* had been delivered in *Ravenstone* in *Leicestershire*) at the *Leicester* sessions, the parish officers of *Ravenstone* applied to the court to make an order of filiation and maintenance on *Start*; when that court ordered that *Start* should be discharged from his recognizance, and that the application should be dismissed, subject to the opinion of this court on the following case. It appeared in evidence on behalf of *Ravenstone* that *S. Hags* died within two hours after she was delivered of the child. That she had previously been examined before a justice, according to 6 G. 2. c. 31. and her examination was produced, in which she deposed that the said *W. Start* was the father of the child. When this examination was offered in evidence, it was objected to on the behalf of *W. Start*, both as inadmissible and insufficient; the court received it in evidence, but thought that the woman being dead, no order of filiation could be made. — *Per curiam*: It is clear from the concluding part of the case that the only doubt entertained at the sessions was, whether or not they could make an order of filiation, the woman being dead, and not whether the evidence was sufficient to make an order on the party before them, if under these circumstances they could make an order at all; and as to the question reserved for the opinion of this court, there is no doubt but that they may proceed to make the order, altho' the woman be dead. The examination having been taken before a magistrate in the course of a judicial proceeding, under the 6 G. 2. c. 31. is certainly admissible evidence, like the depositions taken under 1 and 2 P. & M. c. 13. and being admissible, and not contradicted by any other evidence, it seems to be conclusive. We cannot indeed compel the justices at the sessions to decide on the
the

the weight of evidence; but when we determine that this evidence is admissible in point of law, and that the justices may make the order applied for, though the woman be dead, we have no doubt but that they will also be of opinion that this evidence is conclusive against the party against whom the application has been made. *Per curiam*: Case to be sent back to the sessions. *Durnf. and East*, 5 V. 373.

Bridges.

IN the case of *K. v. Justices of Glamorganshire*, T. 33 G. 3. *Buller J.* said, "As to the power of justices to change roads, by changing the local situation of a bridge, there certainly are old cases against it, and they were properly decided; because previous to 14 G. 2. c. 33. the session had no power to change the situation of bridges; but that act impliedly gives them that power, for it enables them to purchase land adjoining any county bridge, *for the more commodious enlarging or convenient rebuilding the same*. This therefore impliedly gives them the power of altering the position of the bridge to suit the convenience of the public. *Durnf. and East*, 5 V. 279.

Changing the
situation of
bridges.

In the case of *K. v. Inhabitants of Cumberland*, H. 35 G. 3. it was determined, that an indictment for not repairing a county bridge may be removed by *certiorari*, notwithstanding the 1st *An. c. 18. s. 5*.

And also, that those who are bound to repair a bridge, are bound also to *widen* it if the exigencies of the public require it. *Durnf. and East*, 6 V. 194.

Coaches and Carts.

BY 31 G. 3. c. 5. s. 1. an additional duty of 10l. *per cent.* was imposed upon the gross amount of the former duties, which was to cease when certain debts were discharged, occasioned by the late armament respecting Spain.

Spain. But by 33 G. 3. c. 28. s. 24. the said duty is made perpetual.

Present duties to
cease.

By 35 G. 3. c. 109. The present duty of 3l. 10s. charged by the 25 G. 3. c. 47. on carriages with two wheels, of the following description, shall cease. s. 4.

Duty on carriages
principally used
in husbandry,
but occasionally
used for other
purposes, and
drawn by one
horse only.

And in lieu thereof, for every carriage with less than four wheels, by whatsoever name called or known, and drawn by one horse and no more, which shall or may be used in the affairs of husbandry, or for carrying goods, wares, or merchandize from place to place in the way of trade, but which shall or may be used occasionally for the conveyance of persons, and which shall be constructed wholly of wood and iron, without any covering other than a tilted covering, or any lining whatever, and without springs, and which shall have the words A TAXED CART; and also the owner's name and place of abode; there shall be paid 10 s. yearly, by the person keeping the same; which duty shall be raised, levied, collected, paid, accounted for, and applied, in the same manner, by the same persons respectively, and under the like rules, directions, and provisions, and to the like uses, as the duties on carriages with four, three, or two wheels. s. 2.

Carriages of a
higher price than
12 l. not within
the meaning of
this act.

Provided, that no carriage shall be deemed to be within the provisions of this act, where the first price or original sum paid for the same to the maker thereof, or for any subsequent alteration or addition, (repairs excepted,) exceeded 12 l. s. 3.

Owner's name
&c. to be mark-
ed on carriages.

And the owner shall mark or paint, on a black ground in white letters, or on a white ground in black letters, on the outside of the back pannel or back part of such carriage, or if it has no back part on which the same can be put, then on the side or some conspicuous part on the outside thereof, his christian and surname, and place of abode, and the words A TAXED CART, in Roman letters, and in words at full length, such letters to be at least one inch in length each, and of a breadth in proportion; and shall upon demand produce such carriage so marked to the assessor, surveyor, or inspector, or at any meeting of the commissioners, or to any two of them, to be examined by them respecting any of the particulars abovementioned. And whoever shall keep or use any such carriage for the conveyance of persons, the first price whereof, or for any subsequent addition or alteration, (repairs excepted) exceeded 12 l. (the proof of such price shall lie on the owner,) or which shall be constructed in any respect contrary to the provisions aforesaid, or shall not be marked as aforesaid,

Carriages to be
produced when
required.

Carriages not
constructed and
used according to
this act, to pay
3l. 10s. duty.

Coaches and Carts.

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said, or if such person shall neglect or refuse upon demand to produce such carriage for examination as aforesaid, he shall be liable to and chargeable with the said duty of 3*l.* 10*s.* and the surveyor upon notice thereof, shall certify the same in writing under his hand to two commissioners, in order to have such carriage charged 3*l.* 10*s.* in the assessment for that year, and the said commissioners shall thereupon cause the assessment to be rectified, and the said duty to be levied accordingly. *s.* 5.

Provided always, that no person who shall keep any such carriage truly and without fraud to be used wholly in the affairs of husbandry, or carriage of goods in the course of trade, shall be chargeable with any duty, by reason of any person riding thereon when returning from or going to any place, to or from which any load shall have been or shall be to be carried in such carriage in the course of husbandry or trade as aforesaid; or for conveying the owner thereof or his family to and from divine service on *sundays*; or persons going to or returning from the election of members of parliament, in case such carriage shall not have been used for any other purpose of riding thereon save as aforesaid. *s.* 6.

The said duty of 10*s.* shall be liable to the additional duty of 10*l.* *per cent.* granted by 31 G. 3. c. 5. *s.* 7.

But *horses* drawing such carts as aforesaid, shall not be subject to any duty whatever on account of drawing any such cart. *s.* 8.

By 35 G. 3. c. 109. the additional duties imposed by 29 G. 3. c. 49. upon coaches and diligences with four wheels, kept as publick stage coaches for the purpose of conveying passengers for hire, and duly entered as such, and for which an annual duty of 5*l.* is paid; is repealed, and shall be no longer paid. *s.* 1.

Persons riding to fetch or carry loads, or to church, or elections.

Duty to be liable to 10*l.* *per cent.*

Horses drawing such carts not liable to duty.

Additional duty on stage coaches &c. repealed.

Constable.

BY 33 G. 3. c. 55. Two justices at any special or petty sessions, upon complaint upon oath, of any neglect of duty, or disobedience of any lawful warrant or order of any justice, by any constable, or other peace or parish officer, (such person having been duly summoned to appear and answer such charge,) may impose, upon conviction, any

Punishment for neglect of duty.

C

reasonable

Constable.

reasonable fine not exceeding 40s. upon such constable or other peace or parish officer, as a punishment for such disobedience or neglect of duty; and if not paid, may by their warrant levy the same by distress and sale of the goods of such offender, rendering to him the overplus (if any) after deducting such fine and the charges of such distress and sale; to be applied to the poor of the parish or place where such offender shall reside, at the discretion of such justices. And for want of such distress, such offender shall be committed to the house of correction for any time not exceeding ten days. *f. 1.*

Appeal.

If any person shall think himself aggrieved by any thing done in the execution of this act, he may appeal to the next sessions of the county or place where he shall reside, upon giving ten days notice thereof. *id.*

And no person acting under any such warrant of distress, shall be deemed a trespasser *ab initio* by reason of any irregularity in such warrant or proceedings thereupon. *id. f. 2.*

Conviction.

After the words "to the effect following," vol. i. p. 443, for the rest of the title, substitute the following:

General form of conviction.

County of } **B**E it remembered, that on the — day of —
 — in the — year of the reign of our sovereign
 lord George the third, by the grace of God, king of Great Bri-
 tain, and so forth, and in the year of our Lord —, at —
 in the county of —, A. I. of — in the county of —
 yeoman, (if the penalty is appropriated as well to his majesty
 as to the informer say, who prosecutes as well for his said
 Majesty as for himself in this behalf, if as well to the poor of
 the parish where the offence was committed as to the in-
 former, say, who prosecutes as well for the poor of the parish
 of — in the county of — as for himself in this be-
 half,) in his proper person cometh before me, J. P. esquire, being
 one (or, if the proceedings are required to be before two
 justices, say, before us J. P. esquire, and J. P. esquire, being
 two) of the justices of our said lord the king, assigned to keep the
 peace of our said lord the king in and for the said county of
 —, and also to hear and determine divers felonies, tres-
 passes and other misdemeanors in the said county committed, (if
 the

Conviction.

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the particular statute require the conviction to be made by a justice or justices residing near the place where the offence was committed, say, *residing near the place where the offence herein after mentioned was committed, and (as well for* ——— *as for himself, if the case so requires, and if the information is required to be on oath say, on his corporal oath) giveth me (or us) the said justice (or justices) to understand and be informed, that within* ——— *now last past, that is to say, on the* ——— *day of* ——— *in the year of our Lord* ———, *at* ——— *in the said county of* ———, *one A. O. of* ——— *in the county of* ——— *yeoman, (here insert the information,) against the form of the statute (or statutes) in such case made and provided, whereby, and by force of the said statute, (or statutes,) the said A. O. hath forfeited for his said offence the sum of* ——— *of lawful money of Great Britain, and thereupon the said A. I. humbly prays the judgment of me (or us) the said justice (or justices) in the premises, according to the form of the statute (or statutes) in such case made and provided, and that the said A. O. may be summoned to answer the said premises, and to make his defence thereto before me (or us) the said justice, (or justices.) [If the offender hath been summoned and doth not appear, say, Whereupon, on the said* ——— *day of* ——— *in the year aforesaid, at* ——— *aforesaid in the said county of* ———, *I (or we) the said justice (or justices) do issue my (or our) summons under my (or our) hand, (or hands,) directed to the said* A. O. *thereby notifying to him the said information and complaint, requiring the said A. O. to be and appear before me, (or us,) on the* ——— *day of* ——— *next, at* ——— *of the clock in the forenoon of the same day, at* ——— *in the said county of* ———, *to answer and make his defence in and to the matters contained in the said information; and I (or we) do authorize and require* ——— *to serve this my (or our) summons, and to attend me (or us) at the time and place before mentioned, then and there to make a return to me (or us) of the execution of my (or our) said summons; (if the summons is not directed to the party but to some third person, then instead of the above form, say, whereupon, on the said* ——— *day of* ——— *in the year aforesaid, at* ——— *aforesaid in the said county of* ———, *I (or we) the said justice (or justices) do issue my (or our) summons, under my (or our) hand, (or hands,) directed to* ———, *(as the case may be,) thereby notifying the said information and complaint, and requiring the said* ——— *forthwith to summon the said A. O. to be and appear before me (or us) the said justice, (or justices,) on the* ——— *day of* ——— *next, at* ——— *of the clock in the forenoon of the same day, at* ——— *in the said county of* ———, *to answer and make his defence in and to the matters*

Information.

Issuing of summons.

Conviction.

contained in the said information; and I (or we) do require the said ——— to attend me (or us) at the time and place before mentioned, then and there to make a return to me (or us) of the execution of my (or our) said summons: then proceed in both cases as follows,) at which time and place, that is to say, at ——— in the said county of ———, on the said ——— day of ——— at ——— of the clock in the forenoon of the same day, before me (or us) the justice (or justices) aforesaid, comes

Non-appearance. the said A. I. and the said A. O. altho' solemnly called, neglects to appear before me, (or us,) and doth not appear before me, (or us,) nor make any defence against the said charge as aforesaid, although I (or we) have waited to the extreme part of the forenoon of the same day for the appearance of the said A. O.; and ———, a credible witness in this behalf, cometh before me (or us) the said justice (or justices) in his proper person, and before me (or us) the said justice (or justices) the said ——— being then and there, to wit, on the same day and year last aforesaid, at ——— aforesaid in the said county of ———, duly sworn touching the premises, upon the holy gospel of God, on his corporal oath to him then and there administered by me (or us) the said justice, (or justices,) (I (or we) the said justice (or justices) having then and there full power and authority to administer the said oath to the said ———,) deposes, sweareth, and upon his oath aforesaid affirmeth and saith, that he the said ——— did, on the ——— day of ——— last past, at ———, duly serve the said A. O. with the said summons, by then and there delivering a true copy thereof to the said A. O. and shewing him the said original summons, (or, if the original was delivered to the party, say, by then and there delivering the same personally to the said A. O.) therefore I (or we) the said justice (or justices) do proceed to examine into the truth of the said information and complaint; if the offender appears, then immediately after the information, and instead of the above, say,] Whereupon the said A. O. having been duly summoned in this behalf, to answer and make his defence to the said information, and to the said offence therein charged upon him, before me (or us) the said justice, (or justices,) afterwards, that is to say, upon the ——— day of ——— in the year aforesaid, at ——— aforesaid in the said county of ———, appeareth and is present before me (or us) the said justice, (or justices,) in order to answer and make good his defence to the said information, and the said offence therein charged upon him as aforesaid; and he the said A. O. having heard the same, is asked by me (or us) the said justice, (or justices,) if he can say any thing for himself, why he the said A. O. should not be convicted of the premises above charged upon him in form aforesaid; [if the offender

Proof of service of summons.

Appearance.

offender confesses the fact, say, and thereupon the said Confession before evidence.
 A. O. freely and voluntarily confesseth the said information, and the said offence and all and singular the matters and things therein contained to be true, and doth not shew any cause before me (or us) the said justice (or justices) why he should not be convicted of the said offence charged in the said information, and then go immediately to the judgment; if the offender pleads not guilty, then instead of such confession, say,] who pleadeth that he is not guilty of the said offence. Plea.
 Nevertheless on the said — day of — in the year aforesaid, at — aforesaid in the said county of —, one credible witness, to wit, A. W. of —, in the county of — yeoman, cometh before me (or us) the said justice (or justices) in his proper person, and before me (or us) the said justice (or justices) the said A. W. being then and there, to wit, on the day and year last aforesaid, at — aforesaid in the said county of —, duly sworn touching the premises upon the holy gospel of God, on his corporal oath to him then and there administered by me (or us) the said justice, (or justices,) (I (or we) the said justice (or justices) having then and there full power and authority to administer the said oath to the said A. W.) deposeth, sweareth, and upon his oath aforesaid affirmeth and saith, in the presence and hearing of the said A. O. that, (here set forth the matters of fact which are the subject of the information, and if the witness is cross examined, say, and the said A. W. being cross examined by the said A. O. on his oath aforesaid saith, that, here set forth such cross examination, and if more than one witness is examined, state the swearing and examination of every witness thus, and also on the said — day of —, in the year aforesaid, at — aforesaid in the said county of —, one other credible witness, to wit, B. W. of — in the county of — yeoman, and proceed as in the swearing and examination of the last witness.) Whereupon, all and singular the matters and things in the said information and evidence contained being by the said A. O. then heard and fully understood, the said A. O. is by me (or us) the said justice (or justices) asked, what he hath to say or offer in his defence against the said information and offence, and in answer to the evidence given as above mentioned, and what he hath to say why he should not be convicted of the premises so charged upon him; [if the offender alleges a defence, say, and thereupon the said A. O. in his defence saith, that, stating his defence, and if not proved, say, but does not produce any evidence to prove the same, nor doth he require any time for that purpose; if the offender makes no defence, say, but the said A. O. doth not offer,

Conviction.

Confession after
evidence.

Judgment.

offer, or say any thing, or produce any evidence, in his defence against the said information and offence, and in answer to the evidence given as above mentioned, nor why he should not be convicted of the premises so charged upon him; if the offender makes any defence by a witness or witnesses which does not entitle him to an acquittal, then, omitting to state such defence, say,] and forasmuch as upon hearing and fully understanding the said information, and the evidence given as above mentioned, and also upon hearing and fully understanding all and singular the matters and things by the said A. O. alleged and proved in his defence touching the premises in the said information specified, [and, omitting what follows from this place, proceed as at the *x postea*. So, if the offender confesses the offence in this stage of the proceedings, say, and hereupon the said A. O. confesseth the said information, and the said offence and all and singular the matters and things therein contained, to be true, and doth not shew any cause before me (or us) the said justice (or justices) why he should not be convicted of the said offence charged in the said information. Whereupon all and singular the premises being seen and fully understood by me (or us) the said justice, (or justices,) and mature deliberation being thereupon had,] *x* it manifestly appears to me (or us) the said justice, (or justices,) that the said A. O. is guilty of the premises above charged upon him in the said information; it is therefore adjudged by me (or us) the said justice, (or justices,) upon due proof thereof made to my (or our) satisfaction, (or, if the offence was confessed in the first instance, say, upon the free and voluntary confession of the said A. O.) that all and singular the matters and things in the said information contained are true; and thereupon, I (or we) the said justice, (or justices,) on the said — day of — in the year aforesaid, at — aforesaid in the said county of —, do convict the said A. O. of the offence aforesaid in and by the said information charged against him, and he the said A. O. is hereby convicted thereof by me (or us) the said justice, (or justices,) upon the oath of one (or —) credible witness, (or witnesses,) (or upon his own free and voluntary confession,) according to the form of the statute (or statutes) in such case made and provided; and I (or we) the said justice (or justices) do adjudge, that the said A. O. for his offence aforesaid, hath forfeited the sum of — of lawful money of Great Britain, (as in the information; and if the penalty is mitigated say, which said sum of — I (or we) do mitigate to the sum of —) to be distributed as the law directs; (or and I (or we) do adjudge, that one half of the said sum of — be paid to the said informer A. I. and the other

other half of the said sum of — be paid to the poor of the parish of — aforesaid, where the said offence was committed, (or as the case requires,) according to the form of the statute (or statutes) in such case made and provided; (and if costs are given say, and I (or we) do further adjudge, that the said A. O. do forthwith pay to the said A. I. the sum of — of like lawful money for his costs in and about the premises.) In witness whereof, I (or we) the said justice (or justices) to this record of conviction have put my (or our) hand and seal, (or hands and seals,) at — aforesaid in the said county of —, the said — day of — in the — year of the reign of our said sovereign lord the now king, and in the year of our Lord —.

Be it remembered] A conviction is the prosecution of the party, and a memorandum of what the justice hath done in the matter. *Salk.* 378. Conviction, what.

On the — day of —] The information should contain the day when it was taken, that it may appear to have been given within the time limited by the statute. *L. Raym.* 582.

At — in the county of —] The place where the information was taken is material to be shewn, that it may appear the justice was acting within the limits of his jurisdiction; and it seems proper to name the county in the body of the conviction. In *K. v. Austin*, 8 *Mod.* 309. an order was quashed, because no county was mentioned except in the margin.

Cometh before me] A conviction ought to be in the present tense, and not in the time past. *L. Raym.* 1376. *Str.* 608. *Robert's Case*. This rule holds universally with regard to the judgment; but the preceding acts of the justice, some of which must, and others may have occurred at a different time, may be stated according to the fact. Conviction to be in the present tense.

Thus, in *K. v. Hall*, *T.* 26 *G.* 3. where one objection was, that the information was not in the present tense; the court said, that the words objected to were better in the past than the present tense; because they referred to a time past, namely, the time of making the information. *Caf. by Durnf. and East*, 1 *V.* 320.

It has, however, generally obtained in practice, to state the whole record of a conviction in the present tense.

J. P. esquire, being] In *K. v. Chipps*, *Str.* 711. exception was taken to a conviction, that information was given to such a one, *justice of peace*, but did not say *ad tunc* a justice; and he might be a justice at present, and not

Conviction.

at the time of the information. But the court said, that the conviction set forth, that information was made to such an one, *existen' un' justic'*, &c. which must be intended that he was one at that time, and was sufficient without saying *ad tunc*.

Note, that if the information is stated in the time past, the word "*being*," at least, appears to be necessary.

One of the justices of our said lord the king, assigned to keep the peace of our said lord the king in and for the said county] The name and stile of the justice, or justices, to whom an information is given, should be set forth in the statement of the *information*, that it may appear he or they had authority to take such an information. *Salk. 474. Str. 261.*

Residing near the place where the offence hereinafter mentioned was committed] In *Talbot v. Hubble, Str. 1154.* it was decided, that though the 12 *Car. 2.* gives the jurisdiction in excise matters to justices of the peace residing near the place where the forfeiture shall be made or offence committed; yet it never was the design of the legislature to make any alteration in the respective jurisdiction of the justices, but only to vest the excise jurisdiction in justices of counties, cities, and places, with respect to their several local jurisdictions within such places.

On his corporal oath] Where the statute directs the information to be on oath, it should be stated to be so taken. *K. v. Willis, Boscawen 16.*

To be on a complaint precedent.

Giveth me the said justice to understand and be informed] A conviction ought to be upon an information or complaint precedent; and no information can be supported but by evidence of previous facts. *M. 11 W. K. v. Fuller. L. Raym. 510.* In *K. v. Kent, L. Raym. 1546.* the conviction was quashed, because the information was set out to be exhibited on 2 *Nov. 1 G. 2.* and the conviction was laid to be on 2 *Oct. 1 G. 2.*

The time of committing the offence to be stated;

That within ——— now last past, that is to say, on the ——— day of ———] The time of committing the offence must be stated, that it may appear the prosecution is commenced in due time, *Salk. 369.* and also, that the party may be enabled to defend himself against a second charge. *K. v. Katherall, Str. 900.* But, note, the offence need not be proved precisely of the day on which it is laid to have been committed, though it must be proved to have been committed within the time limited for the prosecution. And, for this reason, it has been held sufficient to state, that between such and such a time the defendant killed

killed so many deer, without shewing the particular days upon which they were killed. *K. v. Chandler, Salk. 378. Carth. 501. 5 Mod. 446. L. Raym. 582. and Q. v. Simpson, 10 Mod. 248.*

At ——— in the county of ———] The information must specify the place where the offence was committed, that it may appear to have been committed within the jurisdiction of the justice. A conviction before the lord mayor of London, upon 16 and 17 *Car. 2. c. 2.* for selling coals contrary to that act, viz. less than 36 bushels to the chaldron, was quashed, because there was no place mentioned where the coals were sold, which ought to have been, in regard that the power of the lord mayor is only in case of coals exposed to sale in the city of London and liberties thereof. *Q. v. Highmore, L. Raym. 1220.*

E. 26 G. 3. K. v. Jeffries. This was a conviction on the lottery act, 22 *G. 3. c. 47.* The information charged, that on the 10th of *March 1786, Thomas Jeffries* did, in *Great Queen Street*, in the parish, &c. take and receive of *Thomas Jackson*, 2 s. 9 d.; and, in consideration thereof, did agree to pay him one guinea, if No. 18,433. should be drawn on the 30th day of drawing the lottery. The evidence was, "That on the 10th *March* last, *Jackson* insured personally with the said *Jeffries* the said ticket, and paid 2 s. 9 d. to receive one guinea if drawn blank or prize on the 30th day of drawing." *Erskine* objected, that the evidence did not prove the offence to be committed in the place laid in the information, which it ought to have done; for wherever the jurisdiction of the magistrates, who try the offence, is local, the offence must be proved to have been committed within their jurisdiction. And of this opinion was the court. Conv. quashed. *Cas. by Durnf. and East, 1 V. 241.*

One A. G. of ——— in the county of ———] K. v. Crofts. Conviction on 9 *G. 2. c. 23.* for selling gin. It was objected, that it appeared the defendant was a *feme covert*, and therefore, as she could make no contract, it must be taken to be her husband's sale; or, if she could be convicted, he ought to have been joined, for conformity: and 2 *Keb. 468. 479. 634. 1 Sid. 410.* were cited. It was answered, that where the crime is of such a nature as can be committed by her alone, she may be indicted without her husband; which being a proceeding grounded merely on the breach of the law, he shall not be included unless privy. *H. P. C. 65. 1 Haw. 3. 147. 6 Mod. 213. 239.* In this case there may be imprisonment and whipping.

and the place
where committed.

Feme-coverts
may be convicted.

whipping. *Et per curiam*: We think the conviction is right; for this is not like the cases that found only in damages: the wife may be convicted alone for recusancy. *Hob. 96. 11 Co. Forster's case.* And though she cannot have the benefit of the contract, yet she as well as a servant may do the act of vending. *Salk. 384. Cro. Jac. 482.* Besides, there would be a plain way to evade the act, if *feme-coverts* could not be convicted. *Str. 1120.*

As to the description of the offence. All acts which subject men to new and other trials, than those by which they ought to be tried by the common law, ought to be taken strictly; and the court of king's bench will require that it do appear upon the face of such proceedings, that the fact was an offence within the act, and that the justices have proceeded accordingly. *M. 1 An. K. v. Chandler. 1 Salk. 378. L. Raym. 581. et vide Burr. Mansf. 613. Burr. Mansf. 2281. Cowp. 827.*

The offence to
be particularly
set forth,

Therefore, the particular manner of the offence ought to be set forth. Thus, in the case of swearing, before the legislature by the act of the 19 G. 2. had directed a summary form of words for the conviction, it was required not only to set forth that the person had cursed or sworn in general, but the particular oaths and curses were to be set forth, that the court might judge thereupon, whether they were indeed oaths and curses or not. *H 8 G. K. v. Sparling, Str. 497. K. v. Popplewell, Str. 686. K. v. Chaveney, L. Raym. 1368.*

And in the case of *K. v. Roberts, M. 11 G.* which was a conviction for swearing 150 oaths in these words by G—d, and cursing 150 curses in these words G—d d—n you, this matter was carried so far, that it was insisted this was not sufficient, but that the oaths and curses ought to be set forth 150 times each. But the oaths and curses being all only in the same words over again, the court held the conviction good. *Str. 608. L. Raym. 1376.*

And the quantity of the offence is more especially necessary to be shewn in cases where it is the measure of the penalty or damages to be given by the justice. Thus, a conviction upon *stat. 43 Eliz. c. 7. s. 1.* against cutting of trees, &c. was quashed for not mentioning the number of trees cut, being the measure of the damages to be given in that case. *Q. v. Burnaby. L. Raym. 900. Salk. 181.*

It has been said, "it seemeth, that a conviction on
"a penal statute ought expressly to shew, that the
"defendant is not within any of its provisos; for,"
continues

continues the author, "since no plea can be admitted to such a conviction, and the defendant can have no remedy against it, but from an exception to some defect appearing in the face of it, and all the proceedings are in a summary manner, it is but reasonable that such a conviction should have the highest certainty, and satisfy the court, that the defendant had no such matter in his favour, as the statute itself allows him to plead. 2 *Haw.* 250." But this is to be understood with the following limitation, that where the enacting clause of a statute constitutes an act to be an offence under certain circumstances and not under others, there, as the act is an offence only *sub modo*, the particular exceptions must be expressly specified and negatived; but where a statute constitutes an act to be an offence generally, and in a subsequent clause makes a proviso in favour of particular cases, there the proviso is matter of defence or excuse which need not be noticed in the information.

Thus, the case of *K. v. Clarke, E. 14 G. 3.* was a conviction on 23 *H. 8. c. 9. f. 16.* against playing at bowls, and the court quashed it, because it was not alleged in the information, that the playing at bowls was *out of the defendant's own orchard*, and it is only unlawful *sub modo*. *Cowp. 35.*

Analogous to which is the case of informations upon 5 *Ann. c. 14. f. 4.* in which, it is now fully settled, that you must state and negative all the qualifications enumerated in the 22 and 23 *Car. 2. Vide Str. 66. L. Raym. 1415. Burr. Mansf. 148.* And note, this is so necessary, that if the qualifications mentioned in the 22 and 23 *Car. 2.* are omitted to be set out and negatived in these informations, their being negatived by the evidence will not supply the defect. *K. v. Wheatman, Doug. 331.*

So, where in a conviction upon 43 *Eliz. c. 7.* whereby it is enacted, that if any person shall rob an orchard, *not being felony by the laws of this realm*, being thereof convicted, &c. he shall give the party such recompense as by the justice shall be ordered, it was stated, that J. S. made oath before the justice, that the defendant *Martha Chapman* did rob the orchard of *Thomas Witby*, *the robbery not being felony by the laws of this realm*; and that thereupon the justice did adjudge, &c. *per Ryder Ch. J.* These words in the present conviction, *the robbery not being felony by the laws of this realm*, are not a sufficient particular description of the offence. The manner of the stealing ought to have been stated; that the court might have judged whether it were felonious,

felonious, and consequently whether the justice had a jurisdiction. *K. v. Chapman, Say. Rep. 203.*

But in the case of *K. v. Ford, T. 9 G.* there was a conviction on 3 *G. c. 3.* for keeping an alehouse without licence; and it was objected, that in the act there was a proviso to exempt persons who had been punished by the former law of the 5 and 6 *Ed. 6. c. 25.* and therefore it should have been said, he had not been proceeded against upon that act: but by the court, That coming in by way of proviso, he should have insisted on it in his defence; it appears he was asked what he had to say, and therefore we may reasonably presume he had no such defence to make. And the conviction was confirmed. *Str. 555.*

And in the case of *K. v. Bryan, M. 12 G. 2.* the defendant was convicted on the gin act; and an exception was taken, that there was no averment that it was not sold to be used in medicine: and the cases on the game act were mentioned, where in convictions it is necessary to exclude all the qualifications for killing game. On the other hand, it was insisted, that the reason of that was, because those were in the enacting clause, whereas this about medicine comes in by way of proviso, and is, by way of defence, to be shewn on the defendant's part: and for that purpose was cited *M. 11 G. K. v. Theed, Str. 608.* where, in a conviction for obstructing an excise officer on the 8 *An. c. 9.* it was objected, that it not being averred to be in the day, it should have been shewn that there was a constable present, which is made necessary in the night; but was held to be well, and its being in the night should have been shewn on the defendant's part. And by the court, This is brought within the general enacting clause: and the true distinction is, where the extenuation comes in by way of proviso or exception; and the conviction was confirmed. *Str. 1101.*

But where a prosecutor is not obliged to negative the exceptions in a statute, and negatives some of them only, that part of the information will be rejected as surplusage; and if a subsequent statute make an exception to a former one, it is incumbent on the defendant to shew, by way of defence, that he comes within such exception. *K. v. Hall, T. 26 G. 3. Cas. by Durnf. and East, 1 V. 322.*

And in general, it is sufficient for the justices, in the description of the offence, to pursue the words of the statute, *L. Raym. 581.* whence it results, that any description not within the words of the statute is not sufficient. *K. v. Lewellin, 1 Show. 48. Q. v. Moore, L. Raym. 791.*

So, a conviction on 22 and 23 Car. 2. c. 25. s. 7. against unlawfully killing and taking fish in any river, &c. without the license or consent of the lord or owner of the water, was quashed, because it did not describe the offence in the words of the statute, or say that the defendant stole the fish, or took and killed the fish of another person, or in another person's pond. *K. v. Mallinson, Burr. Mansf. 682.*

So, in the case of *K. v. Trelawney, E. 26 G. 3.* the conviction, which was on the statute 22 G. 3. c. 47. s. 13. against insuring tickets in any state lottery to be authorized by act of parliament, was quashed, because the information did not express, that the ticket insured was a ticket in the state lottery, though the lottery was described as being authorized by the statute 25 G. 3. *Cas. by Durnf. and East, 1 V. 222.*

Whereupon, on the — day of — in the year aforesaid, &c. I the said justice do issue my summons] *T. 11 G. K. v. Venables.* The court were unanimously of opinion, that the party ought to be heard, and for that purpose ought to be summoned in fact; and that if the justices proceeded against a person without summoning him, it would be a misdemeanor in them, for which an information would lie. *L. Raym. 1406. Str. 630.*

The party to be summoned.

And in the case of *K. v. Allington, H. 12 G.* on affidavit that no summons was had, the court granted an information against the justice who made the conviction. *Str. 678.*

Directed to] The summons may be directed either to the offender, requiring him to appear, or to some third person, requiring him to summon the offender.

Requiring the said A. O. to be and appear before me on the — day of —] Natural justice requires that the defendant should have a reasonable time allowed him for making his defence. A conviction upon default of appearance, where the summons was to appear immediately upon the receipt of it, was held bad. *K. v. Mallinson, Burr. Mansf. 679.*

H. 6 G. K. v. Johnson. The defendant was convicted for keeping a gun; and exception was taken, that there was not a reasonable summons; for it was made to appear the same day, which might be impossible upon account of the distance, or the summons being served late; and his witnesses might not be got together on so short a warning: then it was to appear at the parish aforesaid, whereas there were two parishes mentioned before;

so

Conviction.

so the man might have gone to one; whilst they were convicting him at the other. It was answered, that the defendant appeared at the time, and made defence; so that cures all defects in the summons: and by the court, The answer is right. *Str.* 261.

It has been made a question, whether a conviction upon default of appearance, stating, that the defendant was duly summoned, without more, would be good: as to which it may be sufficient to observe, that in order to authorize a justice to proceed to convict in the absence of a defendant, it is necessary to prove that he has been summoned, and consequently, that upon such proof, if duly made, the reasonableness of such summons must appear, by reference to the time when it was served and the time it prefixes to the party. The case of *K. v. Venables*, 11 G. 1. *Seff. Ca.* 210. *L. Raym.* 1405. where this question was agitated, and where it was held, that the summons need not be set forth, is the case of an order, which is discretionary with the justices, and not the case of a conviction. The case of *Q. v. Green*, 10 *Mod.* 213. on the same subject, is too loose for an authority, had it even decided the point; and in *K. v. Simpson*, *Str.* 46. the objection was as to the certainty of the time and place prefixed by the summons, and not as to its reasonableness. And, *per Holt Ch. J.* “Of common
“right the party ought to be summoned, if possible, and
“it would be well to set forth, that he was summoned
“and appeared, or did not appear, or could not be found
“to be summoned; and though the act of parliament
“(in the particular case) orders the offender should be
“convicted, yet that must be intended after summons,
“that he may have an opportunity of making his defence:
“and this summary jurisdiction ought to be held strictly
“to form, and every thing ought to appear regular in
“them; and they ought to make a *memorandum* that
“such a day complaint had been made, that thereupon
“a summons issued returnable such a day, and that the
“party being summoned did, or would not, appear, or
“could not be summoned, &c.” 6 *Mod.* 41.

At — of the clock in the forenoon] It is in general convenient to fix the time for the attendance of the parties precisely; though, according to the foregoing form, it will appear, that they ought not to be held to a very punctual attendance.

Duly serve, &c.] The service of the summons should be proved upon oath, and it seems, that such service should, in general, be a personal one.

Therefore

Therefore I the said justice do proceed to examine] *H. 3 G. K. v. Simpson.* The defendant was convicted for deer stealing; and the conviction set forth, that he had been summoned to appear before the justices, but it did not appear he ever was before them. Exception was taken to this, that as no appeal lies in this case, the justices should not have proceeded in the absence of the party, especially, where it may end in a corporal punishment, as it may do here for want of a distress. And, at another day, on consideration, *Parker Ch. J.* delivered the resolution of the court: We are all of opinion, the offender may be convicted without appearing. The statute is silent as to the method of proceeding, and the law of *England*, it is true, in point of natural justice, always requires the party charged with any offence, to be heard before he be condemned in judgment; but that rule must have this exception, unless it is through his own default; were it otherwise, every criminal might avoid conviction. *Str. 44.*

Whereupon the said A. O. having been duly summoned] It is evident, that if the defendant appear and make defence, it must be taken that he was duly summoned; therefore, in such case it is unnecessary to say more, and his appearance cures any defect in the summons, or even the total want of one. *Str. 261. Salk. 383. Burr. Mansf 1785.*

Upon the — day of —, &c. appeareth] *Q. v. Dyer.* Conviction set forth that the defendant appeared on *Tuesday the 17th day of April 1702*, whereas in fact there was no such day, but the 17th day of April 1702 was on a *Friday*. Et per curiam, it is manifest there could be no such day, and therefore he could not appear thereupon; and when one day is set forth, his appearance on another cannot be intended. Conviction quashed. *Salk. 181. 6 Mod. 41.*

And he the said A. O. having heard the same, is asked, &c.] The defendant should be apprized of the charge against him and put to plead thereto, that is, either to confess or deny it, before the justice proceeds to hear evidence in its support.

And thereupon the said A. O. freely and voluntarily confesseth] In general, if the defendant confesses the offence, it is needless to go into the proof of it. But this is to be understood of a confession to the full extent of a good and sufficient information; for where either the confession does not come up to the charge in the information, or is made upon an insufficient information, it will not supply the want

of evidence in the one case, or of a sufficient charge in the other.

Thus, in *K. v. Little*, confession by the defendant of a single fact of offering to sell silk handkerchiefs without a licence, was held not sufficient to convict him of trading as a hawker, pedlar or petty-chapman, without licence; because a *single act* of selling a parcel of silk handkerchiefs to a *particular person*, is not a proof that he was such a hawker, pedlar or petty chapman, as ought to have taken out a licence. Conviction quashed. *Burr. Mansf.* 613. Had the confession been, that he had traded as a hawker, it would have been sufficient. *K. v. Smith, Burr. Mansf.* 1475.

K. v. Corden, was the case of a confession of an insufficient charge; and the conviction, which was on 5 G. 3. c. 14. for preserving fish, not being on the complaint of the owner, or shewing his dissent to the fishing, and the property not being proved on oath, was quashed. *Burr. Mansf.* 2279.

As to the power of the justices to take the confession of the defendant. In *K. v. Gage, Str.* 546. it was excepted to a conviction on 5 Ann. c. 14. that it was upon the confession of the defendant, which the act had given the justices no power to take; having only given them jurisdiction to convict upon the oath of one or more credible witnesses. *Sed per curiam: (præter Eyre, J.)* the conviction must be confirmed. The intent of mentioning the oath of one witness was only to direct the justices, that they should not convict on less evidence.

K. v. Hall, T. 26 G. 3. The conviction, after setting forth the information, stated the appearance of the defendant, when the said information, together with examinations in writing of two witnesses, which were also set forth, being read, the defendant was asked for his defence, and pleaded guilty. It was objected, that it appeared the evidence was not given in the presence of the defendant, which it ought to have been; that the defendant should have been called upon to plead to the charge before any evidence was received, but that instead of that, the justice read over improper evidence which should not have been given, and then called on the defendant to answer the premises, by which means the defendant was confounded and induced to plead guilty. But the court said, the objection was cured by the defendant's having pleaded guilty. *Caf. by Durnf. & East, 1 V.* 320.

One credible witness, to wit, A. W. of ——— yeoman]
It is requisite to name the witness, that it may appear he

Witness to be
named.

is not the same person who was the informer; for an informer who hath a share of the penalty, is never allowed to be a witness, unless in case where a statute shall specially so direct it. *L. Raym. 1545. 1 Sess. Ca. 378.*

On his oath aforesaid affirmeth and saith, in the presence and hearing of the said A. O.] In all convictions, being in the nature of judgments, the whole evidence ought to be set forth, or at least so much thereof as is sufficient to warrant the conviction; that the court of king's bench may judge of the sufficiency thereof: but otherwise it is in orders which are authoritative. And so it was laid down in the case of *K. v. Lloyd, M. 8 G. 2.* which was thus; a motion was made to quash an order of sessions, made under the statute of the *1 W. c. 21. s. 6.* whereby the defendant was adjudged guilty *upon full proof* of the charge against him, and that he be discharged from his office of clerk of the peace, upon the objection that the evidence is not set out: but it was adjudged after consideration, that this was an order, and therefore the evidence need not be shewn: but that it would be otherwise if it was a conviction. *Andr. 82. Str. 996.*

Evidence to be set forth.

M. 5 G. 2. K. v. Theed. A conviction on the candle act was quashed, because the evidence was not set out; it being only alleged, that the offence was *fully and duly proved.* *Str. 919. 2 Barnard. 16. 73.*

T. 6 G. K. v. Baker. A conviction for taking pilchards against the form of the statute, quashed; because the witness swears generally that the defendant *is guilty of the premises*, and that is taking upon himself to swear the law. *Str. 316. 2. v. Green, 10 Mod. 213. S. P.*

E. 1 G. 3. K. v. Vipont and others. The conviction was, that the defendants, *having heard the charge*, (of conspiring to advance their wages in the woollen manufacture,) and being called upon by the justices to shew cause why they should not be convicted, and having nothing to say whereby to defend themselves, are therefore convicted: and quashed by the court; because the evidence ought to be particularly set forth, that the court may judge thereof; and it must be given in presence of the defendant, that he may have an opportunity of cross-examination. *Burr. Mansf. 1163. K. v. Growther, Cas. by Durnf. and East, 1 V. 127. and K. v. Benwell, id. 6 V. 75.*

To be given in the presence of the defendant.

E. 7 G. 3. K. v. Killet. The defendant, being a clergyman, was convicted for neglecting to read the act against profane cursing and swearing. The conviction fully set forth the offence as charged in the information:

D

and

and then goes on, setting forth that the defendant was summoned, and having neglected to appear, the justice proceeded to examine into the truth of the charge, *and the same, as set forth, being duly proved before him*, he adjudges the defendant guilty. By the court: It is now fully settled, that upon a conviction the evidence ought to be set out, that the court may judge whether the justices have done right; but upon an order it is not necessary. *Burr. Mansf.* 2063.

But, though the evidence ought to be given in the presence of the defendant, if the appearance of the defendant and the examination of the witness are both stated of the same day, the court will presume, that the witness was examined in the presence of the defendant, though it be not expressly so stated. *Burr. Mansf.* 1786. *Cowp.* 241. *Cas. by Durnf. and East*, 2 V. 23.

By the above cases, as well as many others, it has been decided, that the evidence should, in general, be more particular than the information. *Vide K. v. Little, Burr. Mansf.* 609. and *K. v. Thompson, Cas. by Durnf. and East*, 2 V. 18. *Sed vide title Game*, 2 V. 352, &c.

The said A. O. is by me the said justice asked what he hath to say in his defence] If the defendant, when put on his defence, sets up a claim of right to the thing he is accused of taking or destroying, and there is any pretence or colour for such right, the justice ought to acquit him. *Per* *Ld. Ch. J. Holt*, in *K. v. Speed*, *L. Raym.* 583.

In general, as the justices are in the place of jury as well as judge, and are the only judges of the credit due to the witnesses, it does not seem necessary to set forth the evidence on the part of the defendant, unless it be such as entitles him to an acquittal.—So, where the justices acquitted the defendant, upon evidence which, *prima facie*, was sufficient to convict, and there being no contradictory or explanatory evidence; the court said, that the evidence given was entirely and exclusively for the consideration of the justices below, who were placed in the situation of a jury; and as they had acquitted the defendant, the court could not substitute themselves in the place of the justices acting as jurymen, and convict him. That they could not judge of the credit due to the witnesses whom they did not hear examined. That they could only look to the form of the conviction, and see that the party, if convicted, had been convicted by legal evidence. *K. v. Reason, Cas. by Durnf. and East*, 6 V. 376.

Do

Do convict the said A. O. of the offence aforesaid] E. 26 G. 3. *K. v. Solomons.* This was a conviction on the lottery act, 22 G. 3. c. 47. The information as set forth in the conviction was, *that Solomons did keep an office for dealing in shares of lottery tickets without a licence; and also did keep an office for registering the numbers of lottery tickets without a licence, &c.* and the said Solomons was thereupon convicted of the said offence charged upon him, in and by the said information, &c. according to the form of the statute, &c. for which said offence he was adjudged to have forfeited 100 l. By the court: The conviction is bad, for there is a duplicity of charge; the defendant is charged with *dealing in shares of lottery tickets*, and with *registering tickets without licence*; and he is convicted of the said offence, so that it does not appear of which offence he is convicted. A conviction must be good in all its parts; the information must be supported by the evidence, and the judgment must be supported by both. Here the defendant is charged with two distinct offences, each of which would subject him to a separate penalty; and supposing they could have been included in one conviction, which is to be doubted, the defendant should have been convicted of both. A judgment for too little is as bad as a judgment for too much. Conviction quashed. *Cas. by Durnf. and East*, 1 V. 249.

Two offences in one conviction.

K. v. Thompson, Cas. by Durnf. and East, 2 V. 18. To this conviction, which, after setting forth the evidence, stated, *thereupon the defendant on, &c. at, &c. before me, &c. by the oath of one credible witness, according to the form of the statute is convicted*; it was objected, that it did not appear upon the conviction, of what the defendant had been convicted. That the words of the conviction are only a conclusion of law, and not an adjudication of the justice. That there is nothing to connect it with that which precedes it, such as that *he is convicted of the premises, or in manner and form aforesaid*. But the court were clearly of opinion there was no ground for the objection, and affirmed the conviction.

And for his offence aforesaid hath forfeited] H. 3 G. 2. *K. v. Hawkes.* A conviction for killing a deer was quashed, because it was only — *he is convicted*, without any judgment of forfeiture. *Str.* 858.

Forfeiture.

And in the aforesaid case of *K. v. Vipont* and others, the conviction *not adjudging the forfeiture*, was for that reason, as well as the other above mentioned, determined to be ill; especially as the statute, upon which the

conviction was made, leaves the judgment discretionary concerning the duration of the punishment, the offender being to be imprisoned by the justices for any time not exceeding three months. *Burr. Mansf.* 1163. *et vide K. v. Ashton*, 8 *Mod.* 175.

So, in the case of *K. v. Elwell* and others, the commitment being, that the defendants should lie in prison till they pay their fine; and no fine being set, the court quashed the conviction. *L. Raym* 1514.

So, a commitment for non-payment of the penalty and charges on a conviction on 6 *G. 1. c.* 48. against cutting down timber trees, (which is in the alternative, that upon non-payment of the penalty and costs, the offender shall be committed to gaol for any time not exceeding twelve months nor less than six, or until the penalty and charges shall be paid) was held illegal, because, as the conviction did not ascertain any sum for costs or charges, the time of imprisonment was uncertain. Conviction quashed, and the defendant discharged. *K. v. Hall, Cowp.* 60.

Distribution.

To be distributed as the law directs] *M. 9 Ann. K. v. Barret.* A conviction for deer stealing did set forth, that ——— *he is convicted and shall forfeit 30l. according to the form of the statute*, without making a distribution, which ought to be 10l. to the informer, 10l. to the party grieved, and 10l. to the poor. But by the court, this is well enough. 1 *Salk.* 383.

M. 28 G. 3. K. v. Dimpsey, Potts, and others. The defendants were severally convicted before three justices, for refusing to receive soldiers regularly quartered and billeted upon them. These convictions were removed by *certiorari*, for the purpose of taking the opinion of the court upon the construction of the mutiny act, whether alehouse keepers are bound to take in horses as well as soldiers. But as there was a decisive objection to the form of the convictions, the general question was not discussed. Each of the convictions concluded as follows: *And we do adjudge, that for the offence aforesaid, he the said defendant hath forfeited the sum of 5l. of lawful money of Great Britain, to be disposed of as the law directs.* — Law objected, that there was no distribution of the penalty by the justices. The penalty is directed to be applied, in the first place, to make satisfaction to the soldier for any expence he may have been put to, by reason of his not being billeted as the justices shall direct, and the remainder is to be paid to the poor of the parish. He admitted, that where the statute distributes the penalty in certain proportions, it need not be

In what case to be made by the justices.

be distributed by the justices in the conviction; but where it is discretionary in the justices to distribute the penalty in such proportions as they shall direct, that distribution must appear upon the conviction itself.—*Erskine contra*. The justices were not bound to set forth in the conviction the manner in which they have exercised their discretion as to the distribution of the penalty. At the time of the conviction the penalty is not levied, and *non constat* that it ever will; so that it is impossible to distribute it till it is raised. It may be done at a subsequent time, and the court will not presume that the justices will not do their duty. *Per curiam*: A judgment is an entire thing; and one part of it cannot be given at one time, and another at a subsequent period. The distribution of the penalty is part of the judgment, and it ought to appear on the record. Conviction quashed. *Cas. by Durnf. and East*, 2 V. 96.

Do mitigate]. The mitigation of penalties is not of course, but depends upon the power given to justices by particular acts of parliament, to exercise their discretion in this case, within certain bounds, in the instances mentioned in those acts.

And I do adjudge that the said A. O. do forthwith pay to the said A. I. the sum of — of like lawful money for his costs] By stat. 18 G. 3. c. 19. it is enacted, that where any complaint shall be made before any of his majesty's justices of the peace for any county, &c. and any warrant or summons shall issue in consequence of such complaint, that then it shall and may be lawful to and for any justice or justices of the peace, who shall have heard and determined the matter of the said complaint, to award such costs to be paid by either of the parties, and in manner and form as to him or them shall seem fit, to the party injured. And in case any person, so ordered by the said justice or justices of the peace to pay such sums of money as aforesaid, shall not forthwith pay down or give security for the same, to the satisfaction of the justice or justices, it shall and may be lawful for the said justice or justices, by warrant under his hand and seal, or their hands and seals, to levy the said sum or sums by distress and sale of the goods and chattels of such person so refusing or neglecting; and where goods and chattels of such person cannot be found, to commit such person to the house of correction, for the county, &c. wherein such person shall reside, there to be kept to hard labour for any time not exceeding one month, nor less than ten days, or until such sum or sums of money, together with the expences

Conviction.

attending the commitment of such person to such house of correction, be first paid. *s. 1.*

Provided nevertheless, that upon the conviction of any person or persons upon any penal statute or statutes, where the penalty or penalties shall amount to or exceed the sum of five pounds, the said costs shall be deducted by the said justice or justices, according to his or their discretion, out of the said penalty or penalties, so that the said deduction shall not exceed one fifth part of the said penalty or penalties; and the remainder of the said penalty or penalties shall be paid to, or divided among, the person or persons who would have been entitled to the whole of the penalty or penalties in case this act had not been made. *s. 2.*

In witness whereof, I the said justice to this record of conviction have put my hand and seal] A conviction should be under the hand and seal of the magistrate: and a justice ought to give the defendant a copy of the conviction, if he demands it; it is a record, and he is entitled to it. *K. v. Midlam, Burr. Mansf. 1720.*

After all; these convictions being tedious and troublesome, are never drawn up in form, till occasion calls them forth; as if they be to be recorded at the sessions, or removed into a higher court by *certiorari*. But by *Buller J.* A justice of peace ought in every instance to return a conviction by him to the sessions, whether the party appeals or not, or whether an appeal is or is not given, that the crown may not be deprived of its share of forfeitures. *Cas. by Durnf. and East, 2 V. 285.*

Note; On a suggestion that the defendant hath a title to the thing in question, a prohibition will be granted by the king's bench, before or after conviction, to stay the justice from proceeding; for without doubt, if the defendant have but a colour of title, the justices have no jurisdiction in the cause; as where the defendant was convicted for cutting trees, where he had a right of common. *L. Raym. 901.*

Corn.

Regulations for
the exportation
of corn, &c.

BY the 33 G. 3. c. 65. *s. 1.* the sections 55 and 56 of 31 G. 3. c. 30. are repealed; and it is enacted, That the receiver of corn returns shall, at the end of every week, make

make up and compute from the returns by him received, the average price according to the respective measures in table D. of each respective sort of corn and oatmeal, which returns and average prices he shall enter in a book, and shall therefrom make up and compute the average price of each respective sort of corn and oatmeal sold and delivered during such week in each district; and shall transmit to the collectors of the customs of the several ports within each such district a certificate thereof; and every such collector shall enter the same in a book, and cause a copy thereof to be hung up in some publick place in the custom house; and the exportation of corn and other articles aforesaid, and payment of the bounty thereon, shall be governed and regulated by such average prices, until new average prices shall in like manner be made and received. *s. 2.*

And such receiver of corn returns shall, within seven days of the 15th *Feb.* 15th *May*, 15th *August*, and 15th *Nov.* respectively in every year, make up and compute from the six last weekly certificates by him so transmitted to the collectors of the customs, the average price of each sort of corn and oatmeal during the said six weeks in each such district, and shall also without delay, transmit a certificate of the average prices so made up and computed as aforesaid to such collectors of the customs, who shall enter the same in a book, and cause a copy thereof to be hung up in like manner as aforesaid, from which the importation of corn, meal, and flower, and the payment of the duty thereon, shall be governed and regulated, in manner aforesaid. *s. 3.*

Regulations for
the importation
of corn, &c.

And whereas doubts have arisen as to the manner in which such receiver should compute the said average prices; it is enacted, that such receiver of corn returns, shall make up and compute at the end of every week from the average prices of the several sorts of corn and oatmeal returned to him in the week immediately preceding, the average price of each sort of corn and oatmeal in each county; and further make up and compute at the end of every week from the average of the county prices so ascertained, the general average price of each sort of corn and oatmeal, and shall cause the same to be published in the *Gazette* once in every week. *s. 4.*

And in case a sufficient number of returns shall not be made from any district, or in case any sort of corn or oatmeal should be entirely omitted in all the returns of any district, such receiver of corn returns shall transmit a

certificate of the general average price of each sort of corn or oatmeal, or of any sort which may have been omitted as aforesaid, computed as above directed, to such collectors as aforesaid, and according thereto the importation and exportation of such corn and other articles shall be regulated as aforesaid: *s. 5.*

Selling corn by a different measure than the *Winchester*.
Vide Weights and Measures.

Distress.

IN the case of *Firth v. Purvis* and others, *M. 34 G. 3.* it was determined, That it is no answer to an action on the statute *2 W. & M. c. 5.* for a pound breach, that the rent and demand were tendered *after* the distress and impounding. *Durnf. and East, 5 V. 432.*

And in the case of *Storey v. Robinson, H. 35 G. 3.* it was determined, That a horse cannot be distrained damage feasant, if there be a rider upon him. *Durnf. and East, 6 V. 138.*

In the case of *Messenger v. Armstrong, M. 26 G. 3.* which was upon an action for double rent—*L. Mansfield Ch. J.* said, That where a term is to end on a precise day, there is no occasion for a notice to quit, because both parties are apprised that unless they come to a fresh agreement there is an end of the lease. *Durnf. and East, 1 V. 53.*

Where distress cannot be found in the jurisdiction of the justices granting warrants, it may be levied in any other place.

And by *33 G. 3. c. 55.* after reciting that warrants of distress are sometimes ineffectual by reason of the goods of the offender being out of the jurisdiction of the justice granting the same, It is enacted, that in all cases where any penalty, forfeiture, fine, or other money is directed by warrant of any justice to be levied by distress and sale of the goods of any person; if sufficient distress cannot be found within the limits of the jurisdiction of such justice; on oath thereof made by one witness, before one justice of any other county or place, (which oath shall be by him certified by indorsement on such warrant,) such penalty, forfeiture, fine, or other money, or so much thereof as may not have been before levied or paid, may, by virtue

virtue of such warrant and indorsement, be levied by the person to whom such warrant was originally directed, by distress and sale of the goods of such person in such other county or place; to be applied in like manner as if sufficient distress had been found within the jurisdiction of the justice who originally granted such warrant; and if no such distress can be found, such offender may be proceeded against according to law. *f. 3.*

Provided that no justice, who shall indorse any such warrant as aforesaid, shall be answerable for any irregularity which may have been committed in or about the granting thereof. *id.*

Conviction, upon statute 11 G. 2. c. 19. *f. 3.* of a tenant for fraudulently removing his goods or chattels, or other person for knowingly assisting him therein, or in concealing the same goods or chattels, to prevent the landlord from distraining the same for rent.

County of } *BE it remembered, that on the — day of — in the — year of the reign of our sovereign lord George the third, by the grace of God, king of Great Britain, &c. and in the year of our Lord —, at — in the county of —, A. I. of — in the said county of — gent. (if the complaint is exhibited by the bailiff, servant, or agent of the landlord, say, bailiff, servant, on agent, as the case may be, of A. L. of — in the county of — gent.) in his proper person cometh before us J. P. esquire, and J. P. esquire, being two of the justices of our said lord the king, assigned to keep the peace of our said lord the king in and for the said county of — and also to hear and determine divers felonies, trespasses and other misdemeanors in the said county committed, residing near the place whence the goods and chattels hereinafter mentioned were removed, (or, if the proceedings are before justices residing near the place where the goods and chattels were found, say, residing near the place where the goods and chattels hereinafter mentioned were found,) we or either of us not being interested in the — (here describe the place whence such goods and chattels were removed, as messuage, dwelling-house, cottage, close, &c. as the case may be,) and (if the complaint is exhibited by the bailiff, servant, or agent of the landlord, say, in the behalf*

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The letter L. denotes the Landlord, the letter T. the tenant, and they are sometimes used for A. L. the informer and A. O. the offender, as, where the complaint is made by the landlord himself against the tenant.

half of the said A. L.) exhibiteth before us a certain complaint in writing against A. O. of the parish of — in the county of — yeoman, and thereby giveth us the said justices to understand and be informed, that the said A. T. (or one A. T. naming the tenant) for the half of a year next before and ending at and upon the 25th day of December in the year of our Lord —, held and enjoyed a certain — (here describe the demised premises,) with the appurtenances, situate, lying and being in the parish of — in the county of —, as tenant thereof to the said A. L. under a demise thereof then-tofore made, at the yearly rent of — payable to the said A. L. half yearly, to wit, on the 24th day of June and the 25th day of December, by even and equal portions; and that on the said 25th day of December in the said year of our Lord —, the sum of — of the rent aforesaid, for the half of a year ending on the said 25th day of December in the said year of our Lord —, on that day in that year became and was and still is due in arrear and unpaid from the said A. T. to the said A. L. and that the said sum of — of the rent aforesaid so being due in arrear and unpaid from the said A. T. to the said A. L. the said A. T. afterwards, that is to say, on the — day of — in the year of our Lord —, fraudulently and clandestinely conveyed away and carried off and from the said demised premises (or you may say, off and from a certain close, part and parcel of the said demised premises) one, &c. (here describe the goods and chattels fraudulently removed and conveyed away) being the proper goods and chattels of the said A. T. and the same, not exceeding the value of 50 l. but being of less value, to wit, of the value of — of lawful money of Great Britain, to prevent the said A. L. from distraining the same for the said arrears of rent so then due and unpaid as aforesaid, (if the complaint is against a third person for assisting the tenant in such fraudulent carrying off his goods, say, and that the said A. O. on the same day and year aforesaid, did wilfully and knowingly aid and assist the said A. T. in such fraudulent conveying away and carrying off and from the said demised premises the said goods and chattels and every part thereof, or, if the complaint against such third person is for concealing the goods so fraudulently carried off the premises, say, and that the said A. O. afterwards, and after the said goods and chattels were so fraudulently and clandestinely conveyed away and carried off and from the said demised premises as aforesaid, to wit, on the same day and year aforesaid, at the parish of — in the county of —, did wilfully and knowingly aid and assist the said A. T. in concealing the said goods

goods and chattels and every part thereof,) contrary to the form of the statute in such case made and provided, whereby and by force of the said statute, the said A. O. hath forfeited to the said A. L. from whose estate the said goods and chattels were so fraudulently carried off as aforesaid, double the value of the said goods so by him carried off (or concealed) as aforesaid; and thereupon the said A. I. humbly prays, that the said A. O. may be convicted of the said offence according to the form of the statute in such case made and provided; and that the said A. O. may be summoned to answer the said premises and to make his defence thereto before us the said justices. Whereupon, the said A. O. having been duly summoned in this behalf to answer and make his defence to the said complaint, and the said offence therein charged upon him, before us the said justices, afterwards, that is to say, on the — day of — in the said year of our Lord —, at — aforesaid in the said county of —, appeareth and is present before us the said justices, in order to answer and make good his defence to the said complaint, and the said offence therein charged upon him as aforesaid; and he the said A. O. having heard the same, is asked by us the said justices, if he can say any thing for himself why he the said A. O. should not be convicted of the premises above charged upon him in form aforesaid; who pleadeth, that he is not guilty of the said offence: Nevertheless, on the said — day of — in the said year of our Lord —, at — aforesaid in the said county of —, one credible witness, to wit, A. W. of — in the county of — yeoman, cometh before us the said justices in his proper person, and before us the said justices the said A. W. being then and there, to wit, on the same day and year last aforesaid, at — aforesaid in the said county of —, duly sworn touching the premises, upon the holy gospel of God, on his corporal oath to him then and there administered by us the said justices, (we the said justices having then and there full power and authority to administer the said oath to the said A. W.) deposeth, sweareth, and upon his oath aforesaid affirmeth and saith, in the presence and hearing of the said A. O. that (here set forth the evidence, which must prove, the particulars of the demise; the amount of the rent in arrear; the fact of removing the goods, and the circumstances of privacy or fraud attending it; and if the complaint is against a third person for assisting, the fact of such assistance and its particular manner; or, if the complaint against such third person is for concealing the goods or chattels so fraudulently conveyed away by the tenant, the fact of concealing such goods and chattels, and which of them in particular, and the place where they were found so concealed: and

lastly, the value of the goods so removed and carried away or concealed.) Whereupon, all and singular the matters and things in the said complaint and evidence contained, being by the said A. O. then heard and fully understood, the said A. O. is by us the said justices asked what he hath to say or offer in his defence against the said complaint and offence, and in answer to the evidence given as above mentioned, and what he hath to say why he should not be convicted of the premises so charged upon him: And forasmuch as upon hearing and fully understanding the said complaint and the evidence given as above-mentioned, and also upon hearing and fully understanding all and singular the matters and things by the said A. O. alleged and proved in his defence touching the premises in the said complaint specified, it manifestly appears to us the said justices that the said A. O. is guilty of the premises above charged upon him in the said complaint; and that the said goods and chattels in the said complaint mentioned, at the time of the carrying off (or concealing) the same, as in the said complaint is mentioned, were of the value of — of lawful money of Great Britain: Therefore it is adjudged by us the said justices, that the said A. O. be convicted, and he is hereby convicted by us the said justices, of the offence charged upon him in and by the said complaint, according to the form of the statute in such case made and provided; and we do adjudge and order the said A. O. to pay to the said A. I. (if the complaint is by the bailiff, servant, or agent of the landlord, say, to the use of the said A. L.) the sum of — (being double the value of the said goods and chattels in the said complaint mentioned,) on the — day of — now next ensuing, according to the form of the statute in such case made and provided. In witness whereof we the said justices to this record of conviction have put our hands and seals at — aforesaid in the said county of —, the — day of — in the — year of the reign of our said sovereign lord the now king, and in the year of our Lord —.

N. B. The foregoing form of conviction is meant as a substitute for those in vol. 1. pa. 534 and 556, which are erroneous. The act having used the word "order" in the following manner, "and upon full proof of the offence, by "order under their hands and seals, the said justices of peace "may and shall adjudge," &c. the Court, in the case of *K. v. Middlehurst, Burr. Mansf.* 399. considered this proceeding as an order and not as a conviction. If it were so indeed, as orders are discretionary with the justices, it would not have been necessary to set forth the evidence. But the case of *K. v. Morgan, Caldecot*, 158. has decided, that the evidence ought to be set forth in this proceeding, or, in other words, that it must have all the formalities of a conviction.

Evidence.

IN the case of *K. v. South Lynn*, T. 34 G. 3. upon an appeal respecting a settlement, one *Charles Newman*, the owner of a house and other estates in the parish removed from, and also occupier of a small garden ground in the same parish, also his own property; and one *Simon Newman*, who is also an occupier of a dwelling house in the same parish of 5 l. a year, but neither of them assessed to the poor's rate there, were produced as witnesses, but rejected by the court on the ground of their being rateable, and therefore interested in the event of the appeal. *Harvey* and *Perceval* endeavoured to shew, that this case was different from the case of *K. v. Proffer*, for here the witnesses have a permanent property in the parish for which it is found they were liable to be rated, and are directly interested in defeating the settlement in their own parish, as they would be liable to the future maintenance of the pauper. Otherwise the reason for admitting the competency of these witnesses will also extend to admitting the evidence of a parishioner who is in fact rated, provided he has paid the rate; because it may equally be said in that case, that such person having paid his quota can have no interest in the application of the money collected under it; and in both cases the party is liable to all future rates. *L. Kenyon Ch. J.* said, that with respect to the competency of these witnesses, I see no reason to depart from the opinion given in the case of *K. v. Proffer, Durnf. and East*, 5 V. 664.

But in the case of *Swire v. Bell, &c.* M. 34 G. 3. it was determined, that if the subscribing witness to a bond given to indemnify a parish against the charge of a bastard child, be interested in such parish, as well at the time of the attestation, as at the trial; he cannot be examined as a witness to prove the execution thereof; nor is proof of his hand-writing sufficient for that purpose. *Durnf. and East*, 5 V. 371.

In the case of *K. v. Little Lumley*, H. 35 G. 3. The quarter sessions for *Durham* quashed an order for the removal of *J. Greenwall* an idiot, from *Little Lumley* to *Lamesley*; subject to the opinion of this court on the following case. The respondents, to prove the birth of the pauper, called *E. Moralles* an inhabitant of *Lamesley*, not rated to, nor paying any parochial taxes, but on the contrary receiving relief from the township; but she declined to give her evidence voluntarily; they then called *S. Hall*, wife of *W. Hall*,

Evidence.

Hall, to indentify the pauper, who were inhabitants of *Little Lumley*, but were not rated to nor pay any parochial taxes. The sessions being of opinion that *E. Morallee* was not compellable to give evidence on the part of the respondents, and that *S. Hall* was inadmissible, on account of her being an inhabitant of *Little Lumley*, refused to examine her, and the respondents not producing any other witness, the appeal was allowed. The court said that the mere circumstance of inhabitancy did not create an interest in the last witness called, so as to make her an incompetent witness, and there was no reason why the former should not be compelled to give evidence; and they ordered the case to be sent back to the sessions to be heard. *Durnf. and East*, 6 V. 157.

Estray.

IN the case of *Oxley v. Watts*, M. 26 G. 3. it was determined, that an action of trespass lies for working a horse taken as an estray. *Durnf. and East*, 1 V. 12.

Excise and Customs.

BY 34 G. 3. c. 50. s. 7. the provisions made by 24 G. 3. c. 47. sess. 2. and 27 G. 3. c. 32. respecting ships of certain descriptions hovering near the coast, is further extended to cutters, luggers, wherries, smacks, and yawls. And by 35 G. 3. c. 31. s. 1. the same is further extended to all such vessels of what built soever they may be.

And if any vessel having on board any brandy or other spirituous liquors in any cask not containing sixty gallons at the least, (except for the use of the seamen not exceeding two gallons each,) or having on board any wine in casks (provided such vessel having wine on board shall not exceed 60 tons burthen); or having on board six pounds of tea, or twenty pounds of coffee; or any tobacco or snuff, which taken together or separately shall exceed one hundred weight; or any goods whatsoever liable to forfeiture; which

which shall be found at anchor, or hovering, or to have been hovering within the distance herein set forth, (that is to say,) within a supposed straight line from *Walney Island* in *Lancashire* to *Great Ormshead* in *Denbighshire*; or from *Burdsey Island* in *Carnarvonshire* to *Strumble Head* in *Pembrokeshire*; or from *the Lizard* in *Cornwall* to *the Prall* in *Devonshire*; or from *the Prall* aforesaid to *the Bill of Portland* in *Dorsetshire*; or from *Cromer* in *Norfolk* to *the Spurn Head* in *Yorkshire*; or from *Flamborough Head* in *Yorkshire* to *the Staples* in *Northumberland*; or from *the Mull of Galloway* in *Scotland* to the point of *Ayre* in the *Isle of Man*; such vessel not proceeding on her voyage (wind and weather permitting) unless in case of unavoidable necessity (of which notice shall be immediately given to the officer of the customs); then not only all such goods, but also such vessel with her guns, tackle, and furniture shall be forfeited. 34 G. 3. c. 50. s. 8.

And in case any open boat which shall be built for rowing or sailing, or for rowing and sailing, belonging in whole or in part to any of his majesty's subjects, and being of the length of fourteen and under eighteen feet, and the depth of which is greater than in the proportion of $1\frac{1}{4}$ inches to every foot in length, which shall be found within the distance aforesaid, or upon land; the same shall be forfeited, and may be seized by any officer of excise or customs: unless such boat shall have plank of $\frac{3}{4}$ of an inch thick, and her timbers $1\frac{1}{2}$ inches square, and not more than nine inches distant from timber to timber; and if any such boat by this act declared to be forfeited, shall be found on board or shall belong to any cutter, lugger, shallop, wherry, smack, or yawl; such vessel shall also be forfeited, and may be seized by any officer of excise or customs. s. 9.

But nothing in this act shall extend to *whale boats* employed in the whale fisheries. s. 10.

And if any cutter, lugger, shallop, wherry, smack, yawl, or boat, belonging as aforesaid, shall be found to have been within the distance by this act specified as aforesaid, which shall have on board any arms or ammunition, except duly licensed; the same shall be forfeited, together with the goods, tackle, and furniture; which may be seized by any officer of excise or customs. s. 11.

Provided, that nothing herein shall extend to any vessel on a voyage from *America*, or the *East* or *West Indies*, *Africa*, or the *Mediterranean*, so as to subject the same to forfeiture for having spirits, tea, coffee, tobacco, or snuff on

Excise and Customs.

on board; nor to vessels employed in his majesty's service; or used solely on rivers, canals, or inland navigation; or duly licensed as directed by the said act of 24 G. 3.; nor to vessels having arms or ammunition on board regularly entered and cleared; nor to vessels wholly and solely employed in the fisheries, having hooks or nets on board proper for carrying on the same. *id.*

All penalties and forfeitures by this act imposed, are to be recovered and applied as is directed by the said act of 24 G. 3. c. 47. s. 12.

Excise in General.

Excise officers are entitled to a month's notice before an action is brought.

M. 33 G. 3. *Daniel v. Wilson.* This was an action of trespass for an assault committed by an excise officer; the question was, whether he was entitled to a month's notice before the bringing of the action by the 23 G. 3. c. 70. s. 30. No notice was given in this case, and it was contended that it was not necessary, the defendant, at the time of the assault, *not being in the execution of his office.* As to which it appeared that the defendant, just before the assault in question, had been in pursuit of some smugglers, and had, after a violent struggle with them, in which he had been severely beaten, taken some run goods, but the smugglers themselves had retired; in about five minutes after, the plaintiff, who had in truth no concern with the smugglers, or with any smuggled goods, passed by the defendant with something upon his back, and being unknown to the defendant and suspected by him to be one of the gang of smugglers, was ordered to deliver what he was carrying; he answered that he had nothing to deliver, being only a fisherman; whereupon the defendant assaulted and struck him. At the trial at *Hereford*, *Perryn B.* was of opinion that the case fell within the meaning of the statute requiring notice, and for want of it nonsuited the plaintiff. *Leycester* moved to set aside the non-suit, on the ground that the assault could not be said to have been committed in the execution of the defendant's office. But by the court, The act was clearly intended to protect such officers as, acting in the *bona fide* discharge of their duty, were inadvertently guilty of excesses beyond the strict line of their duty. Here an affray had just taken place with some smugglers,

smugglers when the plaintiff passed by under circumstances of suspicion; he refused to stand search; and though the defendant's conduct thereupon was perhaps too hasty, yet it manifestly appears that he acted in the supposed execution of his office, however illegally; and that is sufficient to bring the case within the protection of the statute. Rule refused. *Durnf. and East*, 5 V. 1.

Bricks and Tiles.

FOR every 1000 bricks made in *Great Britain* which are by 27 G. 3. c. 13. subject to a duty of 2s. 6d. shall by the 34 G. 3. c. 15. §. 1. be paid a further duty of 1s. 6d. Duty.

And for every 1000 plain tiles before subject to a duty of 3s. a further duty of 1s. 10d.

And for every 1000 pantiles or ridge tiles before subject to a duty of 8s. a further duty of 4s. 10d.

And for every 100 paving tiles not exceeding 10 inches square, before subject to a duty of 1s. 6d. a further duty of 11d.

Ditto, if exceeding 10 inches square, before subject to a duty of 3s. a further duty of 1s. 10d.

And for every 1000 tiles, other than such as aforesaid, by whatsoever name called, before subject to a duty of 3s. a further duty of 1s. 10d.

Provided always, that tiles made for the sole purpose of draining land, 19 $\frac{3}{16}$ inches long, by 13 $\frac{3}{16}$ inches broad, and bent into a semi-elliptical form, the inside of the crown of the arch thereof being not less than 7 inches perpendicular from a straight line drawn from the one to the other side thereof after the same is so bent, and such sides not being at any part thereof more than 5 inches distant on the inside, and as nearly of the dimensions, and bent as nearly into the form aforesaid as may be; shall not be subject to any duty. 34 G. 3. c. 15. §. 2.

Tiles for draining land, excepted.

Coffee, &c.

FOR every pound of cocoa nuts and coffee, the growth or production of any *British* colony or plantation in *America*, for home consumption, by 27 G. 3. c. 13. subject

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jeat to an excise duty of $6\frac{1}{2}$ d. shall by 35 G. 3. c. 13. §. 1. be paid a further duty of $6\frac{1}{2}$ d.

If the produce of any other place, and before subject to a duty of 1 s. 8 d. a further duty of 1 s. 8 d.

And for every 100 l. of the real value of tea imported, before subject to an excise duty of 5 l. a further duty of 7 l. 10 s.

Warehouses to be provided, and officers to attend.

By the 35 G. 3. c. 118. The commissioners of excise shall provide, near to the respective ports, warehouses for lodging coffee and cocoa nuts. And the commissioners of customs and excise shall appoint officers to attend such warehouses. §. 8, 9.

Casks, &c. to be marked and warehoused.

And the officers of excise shall mark every cask, bag, or other package of coffee or cocoa nuts, on board ships importing them, and if unshipped before so marked, they shall be forfeited and may be seized. And when so marked, the importers shall, in the presence of the officer, unship and convey the same to some warehouse so provided, and such officer shall attend. §. 10.

Within 14 days of being warehoused, the damaged parts to be separated, and an account to be taken.

And within 14 days of being so warehoused, the proprietor shall take the same out of the casks (a), and shall bring the same, and also the casks, to be weighed; and shall separate the damaged parts from the merchantable parts, which shall then be repacked into casks containing not less than 112 lb. each; and the officers shall take an account of the tare of each cask, and weight of the coffee and cocoa nuts contained therein, and such proprietor shall take the same from the scales; and the officer shall mark every such cask, and such proprietor shall remove and stow the same as such officer shall direct; on pain of forfeiting 50 l. §. 11.

Three days allowed after notice.

Provided, that no such person shall be liable to the said penalty, unless he neglect to take such coffee or cocoa nuts out of such casks, or to bring the same to be weighed, or to remove and stow the same as aforesaid; for three days after notice from the officer. *id.*

Samples may be taken.

And after such coffee or cocoa nuts have been so weighed and taken an account of, the proprietor, in the presence of the officer, may take samples, not exceeding four ounces, and not more than three samples out of each cask; and if such proprietor shall take a second or third

(a) Under the word *casks*, is to be understood also *bags*, or other *package*, without repeating these words; except otherwise expressed.

sample, he shall return those that have been previously taken, or an equal quantity in weight. *f. 12.*

And the duties imposed by 27 G. 3. c. 13. and 35 G. 3. c. 13. shall extend to coffee and cocoa nuts delivered for home consumption out of any such warehouse as aforesaid. *f. 13.*

Former duties to extend to coffee, &c. for home consumption.

And when any proprietor intends to take out of such warehouse, any coffee or cocoa nuts, he shall give previous notice in writing to the officer, if for home consumption one hour, if for exportation 12 hours; and shall, within one hour afterwards, bring the same to be weighed, and forthwith pay down the duty for that taken out for home consumption, according to such weight. And the turn of the scale shall be in favour of the crown, and in lieu thereof and of all loss or damage whatsoever shall be allowed 1 lb. upon every 100 lb. of coffee, and 2 lb. upon every 100 lb. of cocoa nuts. *f. 14, 15.*

Regulations for taking coffee, &c. out of warehouses,

Allowance for turn of the scale.

And coffee or cocoa nuts may be delivered from any such warehouse for home consumption, on producing a certificate of the payment of the duties; and a permit for the removal thereof shall be granted. But the same shall not be delivered out, either for home consumption or exportation, in less than the entire cask, and not less than 112 lb. weight. *f. 16.*

When delivered for home consumption.

And if any person shall obstruct any officer in the execution of his duty; or shall rescue any coffee or cocoa nuts which have been seized, or attempt so to do; where no penalty is particularly provided; he shall forfeit 100 l. *f. 22.*

Obstructing officers, or rescuing coffee, &c.

And all penalties by this act imposed, and sued for by the officers of the customs, shall be recovered as by the laws of customs. And all penalties which shall be sued for by the officers of excise, may be sued for, levied, and mitigated as by the laws of excise, or in the courts at *Westminster*, half to the king, and half to him who shall sue. *f. 23, 24.*

Penalties how to be recovered and applied.

Glass.

BY 34 G. 3. c. 27. *f. 1.* a further additional duty is imposed on glass imported.

Importation:
l. s. d.
Home duty.

And also upon every hundred weight of materials that shall be made use of in *Great Bri-*

Excise. (Glas.)

l. s. d.

tain for making of plate or flint glass, or enamel, stained, or paste glass, or phial glass, an additional duty of ————

0 10 8 $\frac{3}{4}$

And for every hundred weight of materials made use of for making window glass (not being spread glass) whether flashed or otherwise manufactured, commonly called crown glass or German sheet glass, an additional duty of

0 8 0 $\frac{3}{4}$

Place of making
to be entered.

By 35 G. 3. c. 114. After 5th July 1795(b), every maker of glass, before he begins to make any glass, or mix or prepare any materials, shall make entry in writing at the next excise office, of all workhouses, furnaces, pots, pot chambers, annealing arches, warehouses, rooms, and other places, by him intended to be used for the making or keeping of glass, or pots, or materials mixed and prepared for making of glass; on pain of forfeiting 200 l. *f. 1.*

Officers may enter and survey, and mark pots.

And the officers of excise by day or night, upon request, may enter into every workhouse, warehouse, or other place, entered or made use of by any maker, and examine and take an account of the materials there mixed and prepared for the making of glass, either before or after the same is put into the pots, and of all glass there made or making; and also may take an account of the contents of each pot, and shall mark and number every such pot as he shall think fit; and if any person shall counterfeit or alter any such mark, or connive at the same being done; he shall forfeit 500 l. And if any person shall wilfully deface or obliterate any such mark, or cause, or connive at the same being done, he shall forfeit 200 l. *f. 2.*

Notice of beginning to work.

And every maker shall, four hours before he begin, give to the officer under whose survey he is, notice in writing of his intention so to do, specifying therein every pot set in such annealing arch, with the number marked by the officer on such pot, on pain of forfeiting 20 l. *f. 3.*

No pot to be filled till gaged.

And no maker shall, after any pot has been set in the furnace, begin to fill the same with metal or preparation for the making of glass, until the officer shall have previously examined and gaged such pot, after the same has been set up in the furnace as aforesaid; on pain of forfeiting 50 l. *f. 4.*

(b) This act shall remain in force for two years from 5th July 1795.

And

And that the officer may be enabled without inconvenience, to ascertain whether, after notice given, and a gage taken, and without fresh notice in writing, any metal, materials, or preparation has been put into any pot; no maker shall, during a quarter of an hour after the officer shall have entered the glass house, and shall have forbidden the same, stir or break up the fire, or add fresh coals or fuel thereto, in any furnace or annealing arch; or wilfully raise any smook, or other noisome or offensive vapour, whereby the officer may be hindered or obstructed in gaging or examining any pot, or in examining the materials in such pot, or in gaging or ascertaining the quantity of such materials, or in examining or counting the vessels, utensils, or wares in any annealing arch; on the penalty of 100 l. *f. 5.*

Fire not to be stirred, &c. to obstruct the officer.

And the officer may at all times unstop or take down any stopper from any pot, for the purpose of examining, gaging, or taking an account of the materials in such pot. *f. 6.*

Officers may unstop pots to gage materials.

And whereas it is expedient to charge the duty on materials for making common glass bottles, upon such makers of glass as shall be desirous thereof, according to the weight of the bottles, in lieu of ascertaining the weight of such materials according to the gage thereof taken in the pots: it is enacted, that if any maker of *common glass bottles*, shall be desirous of making common bottles or other vessels or utensils of *common bottle metal only*, in any distinct and separate glass house and building, and shall deliver to the surveyor or supervisor of the division where such glass house is situate, a declaration in writing of his being desirous to be charged with and pay the said duty according to the weight of the bottles (*c*); and shall specify the particular glass house and building in which he is desirous of making the same; in such case, the officer shall not charge the duty from any gage taken by him in any pot of materials or preparations made use of by such maker; any thing in any act of parliament contained to the contrary notwithstanding. *f. 7.*

Makers of common glass bottles, &c. in distinct houses, to give a declaration thereof.

Provided always, that such declaration shall be in force for six months at least, from the time of the delivery thereof, and from thenceforth until the same be revoked

Declarations to remain in force for six months at least.

(*c*) Under the word *bottles* is to be understood also, all other *vessels* or *utensils* made of *common bottle metal*, unless otherwise expressed.

or withdrawn by a note in writing, delivered by such maker to the surveyor or supervisor of the district. *id.*

Annealing arches to be made of a certain form, and to be numbered.

And every such maker, having delivered such declaration as aforesaid, shall build and construct every annealing arch or oven intended to be used for the annealing of common glass bottles, in a rectangular form, with the sides and ends thereof perpendicular and parallel to each other respectively, and the bottom thereof level, and with only one mouth or entrance, and shall number the same progressively with a durable mark; on pain of forfeiting 100l. *s.* 8.

Iron gratings to be fixed.

And every such maker shall, at his own expence, provide and affix a sufficient iron grating to the mouth of his annealing arch and oven, to be approved of in writing under the hand of the surveyor or supervisor: and proper locks and keys and all other necessary fastenings, for securing and sealing such annealing arch and oven, and the mouth and iron grating thereof, shall be provided by the surveyor and supervisor, at the expence of such maker; and every annealing arch or oven, and the mouth and iron grating thereof, shall be securely locked, fastened, and sealed by the officer, at all times except when such maker shall be at work, or shall be opened by the proper officer, in pursuance of such previous notice as is hereinafter directed: and if any such maker shall neglect or refuse at his own expence to provide such iron grating, or to affix the same in manner aforesaid; or to pay for any lock, key, or other necessary fastening provided by such surveyor or supervisor; or if any person shall obstruct or hinder any officer or person by him employed in fixing such fastening; or in the locking, sealing, or securing any such annealing arch or oven, or the mouth or iron grating thereof, or fastening as aforesaid; or by any means or contrivance whatsoever, shall open any such lock, or annealing arch or oven, or the mouth or iron grating thereof, before the same shall have been unlocked and opened by the officer; or shall wilfully break or damage any such lock, seal, or fastening, he shall, for every such offence, forfeit 200l. *s.* 9.

Locks, &c. to be provided by the officer, at the expence of the maker.

Annealing arches to be locked, except at certain times.

Penalty on obstructing officers, or opening such locks.

Annealing arch not to remain open more than 24 hours, except for repairs.

Provided always, that no such annealing arch or oven shall remain unlocked or open, for any purpose or on any pretence whatever, (except for repairing when empty,) for more than 24 hours, from the time when opened by the officer, who may, at the end of such 24 hours, lock, fasten, and seal such annealing arch and oven, and the mouth and iron grating thereof. *id.*

And

And where locks, keys, or fastenings shall be provided in pursuance of this act, every such maker to whom the same shall belong, shall, when required by the surveyor or supervisor, immediately alter, repair, and amend the same according to such requisition; on pain of forfeiting 100l. *s. 10.*

Locks, &c. to be altered and repaired, when required by the officer.

And when any such maker shall be desirous to light any fire to heat his annealing arch or oven, he shall give to the officer 12 hours notice in writing, and such officer shall attend at the time, and unlock and open such annealing arch or oven, and the mouth and iron grating thereof; and if such maker shall neglect or refuse to light such fire within one hour, such notice shall be void, and such officer shall again lock up the same, and such maker shall give a like and fresh notice before the same shall be again opened. *s. 11.*

Makers to give 12 hours notice of their intention to heat annealing arches. Officers to attend and unlock them.

Fire to be lighted within an hour.

And every such maker shall, when any such common glass bottles are blown or made, remove the same directly into such annealing arch or oven, and shall there deposit the same in such manner as such officer shall approve, and so that the same may the most easily and securely be viewed and examined, and the number and kinds thereof ascertained in each annealing arch or oven; and no such maker shall at one time, put or keep in any such annealing arch or oven, any common bottles of different makings or fillings of the pots; nor put or keep any other sort or species of glass or glass wares whatever, or any phials, in any such annealing arch or oven, entered or made use of for the annealing of common bottles; on pain of forfeiting 50l. *s. 12.*

Bottles when blown to be removed into the annealing arch.

Bottles of different makings not to be put therein at the same time, nor any other sort of glass.

And every such maker, having begun to work any common bottle metal from out of any pot, shall, without any unnecessary delay or interruption, continue to work out all the pots then charged, and shall finish the working out thereof within 16 hours after he began; and as soon as such metal shall be so worked out as aforesaid, and the bottles put into the annealing arch or oven; such maker shall, in the presence of the officer, again charge every such pot with fresh materials or preparations, (other than cullet or broken glass) not less than 50 lb. weight; and shall also deliver to such officer a declaration in writing, specifying the true number of bottles, and whether the same are reputed quart or pint bottles, or bottles of any other and what reputed measure, and the number and kinds of any other vessels or utensils of common bottle metal contained in every such annealing arch; on pain of forfeiting 100l. *s. 13.*

The whole metal intended to be manufactured, to be worked within 16 hours.

And the pots to be again charged.

A declaration of the number of bottles to be delivered.

Penalty.

Exception.

Provided that no such maker shall be liable to the said penalty by reason of his not delivering a true declaration as aforesaid, if the same shall not differ from the number of bottles, vessels or utensils in any such annealing arch, in a greater proportion than 5 in 100. *id.*

Beginning to work, deemed beginning to work the whole then charged.

And every such maker, who shall have begun to work, shall be deemed to have begun to work out the common bottle metal out of every pot at that time charged with materials for making common bottles within the same glass house or building. *s. 14.*

Scales and weights,

And every such maker shall keep sufficient scales and weights at the place where he shall manufacture such bottles, and shall, at his own expence, affix a proper hook or staple in a proper place, to be approved of under the hands of the surveyors or supervisors of the division, and shall suffer any officer to use the same; on pain of forfeiting 50 l. *s. 15.*

Using false weights, or deceiving the officer.

And if any maker of glass shall, in weighing any such common glass bottles, make use of any false, unjust, or insufficient scales or weights, or shall practise any art or contrivance by which such officer may be hindered from taking a true weight; he shall forfeit 100 l. and also such scales and weights, which may be seized by any officer. *id.*

Twelve hours notice to given of taking bottles out of the annealing arch.

And every such maker, being desirous to take any glass bottles out of any annealing arch or oven, shall, 12 hours before he begin, give to the officer notice in writing of his intention, specifying each particular arch or oven, and the number thereof, out of which it is intended to take such bottles, and the hour when he intends to begin, and such officer shall attend at the time mentioned in such notice, and shall unlock and open such annealing arch and oven, and attend to see such bottles taken out; and such maker shall immediately, on such officer's attendance, begin and continue without any unnecessary delay, to take out the whole of the bottles within four hours from the time of beginning; and such maker shall immediately proceed to weigh the same, in the presence of such officer, and shall pay the duty according to such weight; on pain of forfeiting 100 l. And if any such maker, having given such notice, shall not immediately begin, when such annealing arch or oven is so opened, such notice shall be void, and such officer shall immediately again lock up and seal the same in manner aforesaid, and such maker shall be obliged to give a fresh notice. *s. 16.*

Officers to attend.

The whole to be taken out within four hours, and to be weighed.

If such makers do not immediately begin, fresh notice to be given.

Within what hours such notice shall be given.

Provided, that no such maker shall be at liberty to give any such notice except in the day time, and between eight in

in the morning and fix in the afternoon, and every other notice shall be void. *id.*

Provided also, that in weighing common glass bottles, the turn of the scale shall be in favour of the crown, and in lieu thereof there shall be allowed to such maker 1 lb. upon every 100 lb. *f. 17.*

Allowance for the turn of the scale.

And every such maker shall assist, to the utmost of his power, with a sufficient number of his workmen, such officer in weighing and taking an account; on pain of forfeiting 50 l. *f. 18.*

Makers to assist.

And the allowance made by 17 G. 3. c. 39. of $\frac{1}{5}$ part of the metal or other materials contained in pots for making common bottles, is repealed. *f. 19.*

Allowance by 17 G. 3. repealed.

And if any such maker shall convey away any common glass bottles from any annealing arch or oven, before the same be weighed; and shall neglect or refuse to produce the same to such officer to be weighed; he shall forfeit 100 l. *f. 20.*

Bottles not to be removed till weighed.

And every such maker shall keep all common glass bottles, which have not been weighed, separate from those that have been weighed, and from all other glass wares whatsoever; on pain of forfeiting 50 l. *f. 21.*

Bottles weighed and unweighed to be kept separate.

And if any such maker shall make use of any private or concealed annealing arch, oven, utensil, or place, other than those entered; or shall fraudulently remove or convey away any common glass bottles before the same have been weighed; or hide or conceal the same; he shall forfeit 500 l. *f. 22.*

Using private annealing arches, or concealing bottles unweighed.

And no such maker shall make within the same glass house entered or used for making common glass bottles, or in any building thereto adjoining, any phials, or other sort of glass ware, except common bottles and other vessels and utensils of common bottle metal, which vessels and utensils shall be such only as were immediately before the passing of this act, usually made of common bottle metal; on pain of forfeiting 200 l. *f. 23.*

No phials, &c. to be made in places entered for making common glass bottles.

And if any officer shall suspect, that any common glass bottles have been fraudulently conveyed away before the same were weighed, and are deposited, hid, or concealed in any place whatsoever, if within the limits of the chief office in *London*, upon oath made by such officer before two commissioners, elsewhere before one justice, setting forth the ground of his suspicion, such commissioners or justice may, by warrant, empower such officer, by day or night, (but if in the night in the presence of a constable,) to enter such suspected place, and to seize and carry away all such

Upon suspicion that bottles have been removed before weighed, officers, by warrant, may search suspected places.

Obstructing
such officers.

such common glass bottles, or other such vessels there found, as forfeited. And if any person shall obstruct such officer, or person acting in his aid, in the execution of such warrant; he shall forfeit 200 l. *f. 24.*

Obstructing of-
ficers in their
duty.

And if any person shall obstruct any officer in the execution of any powers given to him, by this or any other act relating to glass; he shall (except where other penalties are herein imposed) forfeit 200 l. *f. 25.*

Officers may
gage materials
and take sam-
ples.

Provided, that nothing herein contained shall extend to make it unlawful for any officer at all times to inspect, examine, gage, or otherwise take an account of the materials mixed, and prepared for the making of glass, in any glass-house, as well before the same shall be put into any pot, as after; or to take samples, not exceeding four ounces in the whole out of each pot or other vessel, containing such preparation. *f. 26.*

Recovery and
application of
penalties.

All fines and penalties by this act imposed, may be sued for, recovered, levied, or mitigated as by the laws of excise, or in the courts at *Westminster*; half to the king, and half to him who shall inform or sue. *f. 27.*

Power of former
acts to remain in
force.

And all powers in any act of parliament relating to the duties on glass, (except hereby altered,) shall remain in force. *f. 28.*

Paper.

Exportation and
importation.

BY 34 G. 3. c. 20. Paper which hath paid the duty, and also books, may be exported, and certain drawbacks are to be allowed, subject to certain regulations therein specified.

And by 27 G. 3. c. 13. certain duties were imposed on paper imported; but by 34 G. 3. c. 20. those duties are repealed, and other duties are granted in lieu thereof.

And by the said act of 34 G. 3. c. 20. if any person shall import for sale any book first composed, written, or printed and published in this kingdom, and re-printed in any other country; or shall knowingly sell, publish, expose to sale, or have in his possession for sale, any such book; he shall forfeit the same, and also 10 l. and double the value of such book, which may be seized by any officer of the excise or customs, and the same shall be forthwith made waste paper. *f. 57.*

Provided, that this shall not extend to any book that has
not

not been printed or re-printed in this kingdom, within twenty years before the same shall be imported; nor to any book re-printed abroad, and inserted among other books or tracts to be sold therewith, in any collection where the greatest part thereof shall have been first composed or written abroad. *id.*

And the duties upon paper made in *Great Britain*, imposed by 21 G. 3. c. 24. are repealed. *f. 53.* Former duties repealed.

And by 27 G. 3. c. 13. and 27 G. 3. c. 31. certain duties were imposed on paper made in *Great Britain*, which duties, by 34 G. 3. c. 20. *f. 1.* are repealed, except the duties on paper printed, painted, or stained in *Great Britain* to serve for hangings and other uses. Exceptions.

And in lieu thereof the following duties shall be paid.

For every pound weight avoirdupois of paper, fit or proper, or that may be used for writing, drawing, or printing; elephant papers, and cartridge papers made in *Great Britain*, an excise duty of - - -

l. s. d.

Duty on paper made in *Great Britain*.

0 0 2½

For every pound weight of coloured papers, and whited brown papers, (except elephant and cartridge papers,) fit for wrapping up goods, and not fit for, or capable to be used for writing, drawing, or printing; a duty of -

0 0 1

For every pound weight of brown paper fit for wrapping up goods, and not fit for, or capable to be used for writing, drawing, or printing; a duty of - - -

0 0 0½

For every pound weight of every other sort or kind of paper, not herein before enumerated or described, (except papers commonly called sheating paper, and button paper, or button board); a duty of - - -

0 0 2½

For every hundred weight (and so in proportion for a greater or lesser quantity) of pasteboard, millboard, and scaleboard, a duty of

0 10 6

For every hundred weight (and so in like proportion) of glazed paper for clothiers, and hot-pressers; a duty of - - -

0 6 0

Which said duties shall be paid by the makers thereof respectively; and shall be under the management of the commissioners of excise. *f. 2, 3.*

Duties to be paid by the maker; and to be under the commission of excise.

And all paper, proper either for writing, drawing, or printing; elephant papers, and cartridge papers made in

Great

The different classes of paper.

Great Britain, shall be denominated papers of the first class: all coloured papers and whited brown papers, (not being elephant or cartridge papers,) proper for wrapping up goods, and not capable of being used for writing, drawing or printing; shall be denominated papers of the second class: and all brown paper, proper for wrapping up goods, and not capable of being used for writing, drawing or printing; shall be denominated paper of the third class: and every other sort of paper, not enumerated or described in any of the three classes aforesaid, (except papers called sheating paper, and button paper, or button board); shall be denominated papers of the fourth class: and all pasteboard, millboard, scaleboard, and glazed paper for clothiers, and hot pressers; shall be denominated paper of the fifth class. *f. 4.*

Places of making or keeping, to be entered.

And every maker before he shall begin, shall make entry in writing at the next excise office, of every mill, workhouse, or other place by him made use of for making, drying, or keeping paper, or materials proper to be made into paper; and of all vats, presses, utensils or vessels used, or intended to be used in making the same; on pain of forfeiture thereof, and also 50*l.* *f. 5.*

Paper, &c. to be made up in certain quantities.

And all such paper shall be made up by the maker into *quires*, to consist of twenty-four sheets each; which shall immediately be made up into *reams* or *bundles*, each such ream to consist of twenty such quires, and each such bundle to consist of forty such quires; and all such pasteboard, millboard, scaleboard, and glazed paper respectively, shall be immediately made up into *parcels*, each such parcel to contain even dozens of sheets, and not less than twenty-four, nor more than seventy-two sheets to each parcel; and all quires, reams, and bundles of paper, and all parcels of pasteboard, millboard, scaleboard or glazed paper, shall be deemed to consist of such quantities respectively, and of no other; and if any such maker shall make up the same contrary to the directions aforesaid, he shall forfeit the same, and also 50*l.* for every such offence. *f. 6.*

Notice of weighing.

And every maker whose mill or workhouse is situate in any city or market town, who shall have any paper, pasteboard, millboard, scaleboard, or glazed paper to be weighed and charged with the duty, shall give twenty-four hours (elsewhere forty-eight hours) previous notice in writing to the officer of excise, who shall attend; and such maker or his servant, shall produce to such officer the whole thereof tied up in the manner following, (*viz.*) all such paper shall

be

be inclosed and tied up with strong thread or string in covers, containing one ream or bundle each, and not more or less; and all such pasteboard, millboard, scaleboard, and glazed paper, shall be tied up with strong thread or string in such parcels as aforesaid; and the different parts of such thread or string, shall pass over and across each other at the middle of the ream or bundle; and where the different parts of such string shall cross each other, the same shall be passed from thence over and across the ends and sides of such ream or bundle; and on each cover, there shall already be marked, written, or printed by the maker, in large and legible characters, and in words at length, the class of the paper inclosed in each such cover, distinguishing in which of the aforesaid four first classes, the duty is chargeable, together with the number of such ream or bundle, according to the numbers of each such class made at such mill, during the then current quarter of a year, to be computed from the 5th *January*, 5th *April*, 5th *July*, or 10th of *October*, as the case may require in each year, such number to be taken progressively, beginning at one, and so onwards according to the number of reams or bundles of each such class, made at such mill in each such quarter; and on each such parcel of pasteboard, millboard, scaleboard and glazed paper shall be marked in like manner, before it be produced to the officer, a description of such parcel, and whether it is pasteboard, millboard, scaleboard, or glazed paper, and the number of sheets in each parcel, together with the progressive number of such parcel made by such maker at such mill, during the then current quarter, commencing as aforesaid: and if such maker shall not at the time mentioned in such notice, produce to such officer, all the paper, pasteboard, millboard, scaleboard and glazed paper, for which any duty is to be charged, tied up, and the proper class, and other matters herein before prescribed marked thereon; such notice shall be void, and he shall be obliged to give a fresh and like notice before any account shall be taken or the duty charged, and before he shall remove the same from the mill where made. *f. 7.*

And the commissioners of excise shall provide stamps. And if any person shall counterfeit any such stamps; or shall counterfeit, forge, or resemble the mark upon any cover, wrapper, or label affixed to any quantity of paper; or shall knowingly have in his possession any counterfeit stamps, or shall sell any such paper with a counterfeit or forged stamp thereon, knowing the same; or shall

Stamps to be provided; and penalty of counterfeiting the same, or selling with forged stamps.

put

put any cover upon any such parcel or bundle which has not been duly entered, or shall use any cover or wrapper which has been used before; then, in every such case, every such offender shall forfeit 500 l. *s. 8, 9.*

Directions for
stamping paper.

And as soon as such officer is satisfied that the conditions herein specified have been complied with, he shall affix on every such bundle or parcel, a proper label to denote the duty being so charged, and shall write his name upon each, together with the day on which the duty was charged. And if any person shall wilfully deface or alter the same, or any part thereof, he shall forfeit 50 l. for every such offence. *s. 10.*

Defacing marks.

Officers may
take samples.

And any officer may open any such ream or bundle of paper, and take out a sample, not exceeding one sheet out of each quire (paying a market price for the same if demanded); and if he shall discover therein any paper of a different class than that which shall be denominated on the cover; the same shall be forfeited and may be seized, and the person who shall have marked any such false class, shall forfeit 50 l. for every such offence. *s. 11.*

Entries to be
made every six
weeks.

And every such maker, shall, once in every six weeks, make entry in writing at the excise office, which entry shall contain the quantity of paper made; and also the classes of all such paper according to the four classes aforesaid; and the number of reams and bundles of such paper, and the weight of each; and also the number, quantity, and weight of such bundles or parcels of paper in the fifth class as aforesaid, made by him within such six weeks, on pain of forfeiting 50 l. which entries shall be verified upon oath (to be administered by the officers of excise without fee) by the maker or his chief workman: Provided that no such maker shall be obliged to go further than the next market town, for the making of such entry. *s. 12.*

And duties to be
paid.

And every maker shall, within six weeks after he shall make or ought to have made such entry, pay the duties, on pain of forfeiting double duty. *s. 13.*

Paper not to be
removed until an
account be
taken.

And no maker shall remove from the mill where the same shall be made, any paper or articles aforesaid, until such officer shall have taken an account thereof; nor in any less quantity than in a ream or bundle, nor without having thereon the cover in which the same was charged with the duty: nor shall remove any such pasteboard, millboard, scaleboard, or glazed paper in any less quantity than the entire parcel in which the duty was charged, nor until weighed and charged, and stamped, marked, and labelled as aforesaid; and the cover stamped, and the officer's name, together

together with the day and year when the duty was charged, and the several matters and things herein before prescribed marked on such cover; on pain of forfeiting the same, and also 50 l. for every such offence, together with the package containing the same, and the horses, cattle, carriages, boats, barges, or other vessels used in removing thereof; which may be seized by any officer of excise. 24 G. 3. c. 18. *sess.* 2. *f.* 5. 34 G. 3. c. 20. *f.* 14.

And no maker shall remove any paper or articles aforesaid from the place where the same was weighed, and the duty charged, in less than twenty-four hours; and shall keep such as have been weighed separate for twenty-four hours, unless sooner re-weighed by the surveyor or supervisor, to the end that the same may be re-weighed by such surveyor or supervisor after such officer; and if, upon re-weighing, any additional weight shall be found, the same shall be charged with the duty according to such last-mentioned weight; and if any such maker shall offend herein, he shall forfeit 50 l. for every such offence. 34 G. 3. c. 20. *f.* 15.

When to be removed after weighing, and to be kept separate.

Provided nevertheless, that nothing herein shall extend to prevent any maker from sending paper from the mill where made, upon giving forty-eight hours notice in writing to the officer, to any other mill to be sized and finished, in order that such officer may attend and take an account thereof; and provided that the same be removed with a proper certificate from such officer; and, when so removed to such mill, the same shall be under the like directions, as to stamping and other matters, as if it had been finished at the mill where made; and such maker shall, for the breach of any of the directions aforesaid, be subject to the like penalty, as he would have been, if such paper had not been removed. *f.* 16.

May be removed from one mill to another on giving notice.

And every maker shall keep all paper which hath been charged and stamped, apart from all paper which hath not been charged and stamped; and also, all paper of one class separate from paper of another class; on pain of forfeiting 50 l. for every such offence. *f.* 17.

Paper stamped to be kept separate.

And any officer of excise may, by day or night, (but if in the night then in the presence of a constable,) enter into any mill, workhouse, or other place entered or made use of by any maker for making, keeping, or drying paper, or materials proper to be made into paper, and by weighing, tale or otherwise, may take an account of the kinds and quantities of paper which shall have been made, and shall make a report thereof in writing to the commissioners of excise,

Officers may enter and take an account.

excise, or whom they shall appoint, leaving a copy of such report under his hand with such maker (if demanded in writing); and such report shall be a charge upon such maker; and if such officer shall refuse to give or leave a copy of his report in writing at the time of taking such account (being demanded as aforesaid,) he shall, for every such offence, forfeit 40 s. to such maker. *s. 18.*

Maker to keep
scales and
weights.

And every maker shall keep scales and weights, and shall permit such officer to use the same; and if he shall provide or use any false scales or weights, or practise any devise to prevent such officer from taking the true weight; he shall, for every such offence, forfeit 100 l. together with such insufficient scales and weights, which may be seized by any officer of excise. *s. 19.*

And to assist in
weighing.

And every maker, when required by such officer, shall, with a sufficient number of his servants, assist in weighing and taking an account; on pain of forfeiting 50 l. *s. 20.*

Turn of the
scale.

And in weighing, the turn of the scale shall be in favour of the crown, and in lieu thereof there shall be allowed to the maker 2 lb. upon every 100 lb. and so in proportion for a greater or lesser quantity. Provided, that no weight less than 1 lb. shall be used; on pain of forfeiting such allowance. *s. 21, 22.*

Not less than
1 lb. to be used.

Paper, &c. frau-
dulently hid to
be forfeited.

And in case any paper or articles aforesaid, shall be fraudulently hid or concealed, with intent to defraud his majesty of the duties, the same shall be forfeited, together with the package containing the same, which may be seized by any officer of excise. And the better to enable any such officer to discover the same, if he shall suspect that any such paper is hid or concealed in any place within the limits of the chief office in *London*, upon oath made before two commissioners or one justice for the county, city, or liberty where such place shall be; or if in any other part of *Great Britain*, then before one justice of the county or place where such officer shall suspect the same to be deposited; such commissioners or justice may, if they judge it reasonable, by special warrant, empower such officer by day or night, (but if in the night in the presence of a constable,) to enter such suspected place, and to seize and carry away all such paper, &c. as they shall there find so forfeited, together with the package containing the same; and the person in whose custody the same shall be found, shall also forfeit, 50 l. *s. 23.*

Officers may
search.

Stationers not to
receive paper but
in an entire
ream, &c.

And no stationer or dealer in paper shall receive into his possession any paper made in *Great Britain*, which shall not at the time of receiving it, be an entire ream or bundle, and
inclosed

inclosed in a cover or wrapper stamped as aforesaid, together with the officers name and day when the duty was charged, and the class marked thereon; on pain of forfeiting 50 l. together with such paper, which may be seized by any officer of excise. *f. 24.*

And no such stationer, dealer, or other person, shall return to any maker, nor to any mill, workhouse, or other place for the use of such maker, any wrapper or cover which has been before used; but the same shall, upon opening any such ream or bundle, forthwith be destroyed: and no such maker shall receive or suffer to be returned to him, or to be kept at any mill, workhouse, storehouse, room, or other place to him belonging, or at any other place for his use, any such wrapper, cover, or label which has been before used; on pain of forfeiting 100 l. together with such wrapper, cover, or label, which may be seized by any officer of excise. *f. 25.*

Wrappers not to be returned, but to be destroyed.

Provided, that nothing herein shall extend to any wrapper or cover which hath been opened, containing therein the same identical ream or bundle of paper which was sent, and is returned on account of being disliked and refused by the person to whom the same was sent. *f. 26.*

Not to extend to paper opened and returned as disliked.

And all paper, pasteboard, millboard, scaleboard, and glazed paper, and all materials and utensils for the making thereof in the custody of the maker, or other person in trust for him, shall be liable to and chargeable with all debts and duties for paper in arrear and owing by such maker, and shall also be subject to all penalties and forfeitures incurred for any offence against this act. *f. 27.*
28 G. 3. c. 37. f. 21.

Paper and utensils, &c. liable to the duty.

And if any question shall arise whether any paper is belonging to the class marked on the cover or wrapper, (although such paper shall appear to have been entered in the officers books as belonging to such class,) the proof thereof shall lie on the owner, by the oaths of two skilful and experienced witnesses. *34 G. 3. c. 20. f. 35.*

Proof of the paper being of the class marked to lie on the owner.

And if any person shall assault, oppose, molest, obstruct, or hinder any officer in the due execution of this act, he shall forfeit 100 l. *f. 36.*

Obstructing officers.

Books printed at *Oxford* or *Cambridge*, in Latin, Greek, Oriental, or Northern languages; and also Bibles, Testaments, Psalm Books, or Books of Common Prayer, printed either in those universities, or by the king's printer, shall have drawbacks allowed an certain conditions. *f. 37,*
39, 40, 41.

Oxford and Cambridge.

Pasteboard not
liable to further
duty.

This act not to
alter 32 G. 3.
c. 54.

Counterfeiting
or forging
stamps, &c.

Allowance to
be made on pa-
per damaged.

Notice of appli-
cation for such
allowance.

Penalties how to
be recovered.

Provided always, that pasteboard made wholly of paper which hath paid the duty, shall not be charged with any further duty upon the sheets being pasted together. *s.* 42.

Provided, that nothing herein shall extend to alter or affect the provisions contained in 32 G. 3. c. 54. *s.* 47.

And if any person shall counterfeit any stamp, or counterfeit or forge any stamp, mark, or seal upon any parcel of paper; or knowingly have any such in his possession; or shall knowingly sell or have in his possession any paper marked with a counterfeit or forged stamp; or put the same upon any foreign paper, which has not been duly entered; or shall affix upon any ream or quantity of paper any stamp which hath been before used; he shall forfeit 500*l.* *s.* 48.

And if any such paper, pasteboard, millboard, scale-board, or glazed paper, for which the duty hath been paid, shall be damaged by the casting away or sinking of the vessel in which the same shall be transported from one part of this kingdom to another, the justices where such accident shall happen, shall at the next quarter sessions, upon proof of such damage, and of payment of such duties as aforesaid, determine the quantity of damage done to such paper, and the allowance to be made in respect thereof; and shall give a certificate under their hands and seals, or two of them present at such sessions, of the sum allowed; which allowance shall bear the same proportion to the whole of the duties so paid, as the said damage shall appear to bear to the value of such paper before the same was so damaged; and upon producing of which certificate to the officer, he shall repay or allow to the proprietor of such paper out of the duties paid for the same, so much money as the sum certified by the said justices shall amount unto; or in default, such proprietor may deduct the same, out of any subsequent monies becoming due for paper made by him. *s.* 49.

Provided always, that the person who shall sustain such loss, shall, three days before such sessions, give or leave notice in writing thereof with the collector of the district, and of his intention of applying to such sessions. *s.* 50.

All penalties, fines, and forfeitures, shall be sued for, recovered, levied, and mitigated as by the laws of excise, or in the courts at *Westminster*, half to the king and half to him who shall inform or sue. *s.* 52.

Spirituous Liquors.

FOR every gallon of single brandy imported, to be paid by the importer before landing, by 31 G. 3. c. 1. a duty of 10d. And by 34 G. 3. c. 3. an additional duty of 10d. And by 35 G. 3. c. 12. a further additional duty of 10d. Additional duties on importations.

And for every gallon of brandy above proof, by 31 G. 3. c. 1. a duty of 1s. 8d. And by 34 G. 3. c. 3. an additional duty of 1s. 8d. And by 35 G. 3. c. 12. a further additional duty of 1s. 8d.

And for every gallon of rum, spirits, or aqua vitæ of the produce of the *British* colonies or plantations, by 31 G. 3. c. 1. a duty of 8d. And by 34 G. 3. c. 3. an additional duty of 8d. And by 35 G. 3. c. 12. a further additional duty of 8d.

And for every gallon thereof above proof, by 31 G. 3. c. 1. a duty of 1s. 4d. And by 34 G. 3. c. 3. a further duty of 1s. 4d. And by 35 G. 3. c. 12. 1s. 4d. more.

And for every gallon of single spirits or aqua vitæ, (other than such brandy, rum, spirits, or aqua vitæ as aforesaid,) by 31 G. 3. c. 1. 10d. And by 34 G. 3. c. 3. 10d. And by 35 G. 3. c. 12. 10d. more.

And for every gallon of spirits or aqua vitæ (other than such brandy, rum, spirits, or aqua vitæ) above proof, by 31 G. 3. c. 1. 1s. 8d. And by 34 G. 3. c. 3. 1s. 8d. more. And by 35 G. 3. c. 12. 1s. 8d. more.

[N. B. The additional duties granted by 31 G. 3. c. 1. were at first only temporary; but by 34 G. 3. c. 4. s. 1. those duties are made perpetual.]

For every gallon of fermented wort or wash, which shall be brewed or made in *England* for extracting spirits for home consumption, from malt, corn, grain, or tilts, or any mixture with the same, shall be paid by the maker or distiller, a further excise duty, by the 31 G. 3. c. 1. of 1d. And by 34 G. 3. c. 2. 1d. more. And by 35 G. 3. c. 11. 1d. more. Additional duty on home spirits.

And for every gallon of cyder or perry, or any other wash or liquor, made as aforesaid, from any kind of *British* materials, (except such as aforesaid,) or any mixture therewith, for extracting spirits as aforesaid; by 31 G. 3. c. 1. 1d. And by 34 G. 3. c. 2. 1d. more. And by 35 G. 3. c. 11. 1d. more.

And for every gallon of fermented wort or wash made from melasses or sugar, or any mixture therewith, for extracting

Excise. (Spirituous Liquors.)

tracting spirits as aforesaid; by 31 G. 3. c. 1. $1\frac{1}{2}$ d. And by 34 G. 3. c. 2. $1\frac{1}{2}$ d. more. And by 35 G. 3. c. 11. $1\frac{1}{2}$ d. more.

And for every gallon of wash made from foreign refused wine, or foreign cyder, or wash prepared from foreign materials, (except melasses and sugar,) or any mixture therewith, for extracting spirits as aforesaid; by 31 G. 3. c. 1. 2 d. And by 34 G. 3. c. 2. 2 d. more. And by 35 G. 3. c. 11. 2 d. more.

And for every 96 gallons of wash which *Messrs. Bishops of Maidstone* shall produce, from a weight of malt or other corn including the bran thereof, and not exceeding 112 pounds; by 31 G. 3. c. 1. 2 s. $8\frac{1}{4}$ d. And by 34 G. 3. c. 2. 2 s. $8\frac{1}{4}$ d. more. And by 35 G. 3. c. 11. 2 s. $8\frac{1}{4}$ d. more.

Duty on spirits made in *Scotland* and imported into *England*.

And for every gallon of *British* spirits of a strength not exceeding one in ten over hydrometer proof, manufactured in *Scotland* and brought into *England*, shall be paid by the importer, by 33 G. 3. c. 61. *f.* 34. 3 s. 2 d. And by 34 G. 3. c. 2. *f.* 1. $5\frac{1}{2}$ d. more.

And also a further duty proportioned to the degree of strength in which such spirits shall exceed $\frac{1}{16}$ over hydrometer proof, as aforesaid, 33 G. 3. c. 61. *f.* 34. 34 G. 3. c. 2. *f.* 1.

Licence to be taken by distillers, &c. in *England*.

And distillers and rectifiers in *England* for exportation to *Scotland*, shall take out a licence from the officers of excise, for which shall be paid for every gallon (*English* wine measure) of the contents of the still, if the materials are *British* 9 l. if melasses or sugar 15 l. if foreign refused wine or foreign materials (except melasses or sugar) 18 l. and every rectifier 9 l. which licence shall be taken out ten days before they begin, on penalty of 200 l. 33 G. 3. c. 61. *f.* 30.

Allowance to be made on withdrawing entries.

And distillers withdrawing their entries for exportation, and making entry for home consumption, shall be allowed an abatement of the licence duty for every day the still is used in making spirits for home consumption, if from *British* materials $7\frac{2}{10}$ for every gallon of the contents of such still; if from melasses or sugar 1 s; if from foreign refused wine 1 s. $2\frac{1}{2}$ d. And for stills employed in rectifying $7\frac{2}{10}$. 33 G. 3. c. 61. *f.* 31.

Sweets.

BY 35 G. 3. c. 10. s. 1. For every barrel of liquor made in *Great Britain* for sale, commonly called sweets, or made wines, shall be paid an additional duty of 11 s. 7½d.

Wine.

BY 35 G. 3. c. 10. An additional duty shall be paid for every ton of *French* wine imported, 30 l. and so in proportion for a greater or lesser quantity.

And for every ton of *Portugal*, *Madeira*, and *Spanish* wine, and wine of all other sorts imported, 20 l. s. 1.

Excise and Customs.

FORMS of Proceedings before the Justices, upon the Acts 9 Geo. 2. chap. 35. sect. 21. against Persons found carrying Run or Prohibited Goods; and 11 Geo. 1. chap. 30. sect. 16. against Persons for harbouring or concealing Run or Prohibited Goods.

No. I.

Form of an information before one justice of the peace, upon the act 9 Geo. 2. chap. 35. sect. 21. * against a married woman found carrying goods *liable to the duties of customs only*, and which she knew had been clandestinely run and imported without payment thereof. * ad Burn's Justice, p. 13.

County of } BE it remembered, that on the — day of
— in the — year of the reign of
our sovereign lord George the third, now king of Great Bri-
tain,

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tain, &c. and in the year of our Lord one thousand seven hundred and —, at — in the county of —, A. B. of — in the said county of —, who prosecutes as well for the poor of the parish of — in the said county, as for himself, in this behalf, in his proper person cometh before me —, one of the justices of our lord the king, assigned to keep the peace of our said lord the king in and for the said county of —, and also to hear and determine divers felonies, trespasses, and other misdemeanors in the said county committed, and as well for the poor of the parish of — in the said county, as for himself, giveth me the said justice to understand and be informed, That after the 24th day of June 1736, to wit, on the — day of — in the year of our Lord one thousand seven hundred and —, at the parish of — in the said county of —, one —, being one of his majesty's officers of the customs, did find and seize upon and in the custody one C. D. the wife of E. D. late of — in the said county of —, divers, to wit, two pieces of muslin of great value, to wit, of the value of — l. of lawful money of Great Britain, being goods, wares and merchandizes liable to the payment of the duties of customs, to and for the use of his said majesty, which had been brought from parts beyond the seas by way of merchandize, and had been unshipped and clandestinely run and imported into this kingdom, to wit, to the parish of — aforesaid, without payment of the said duties for the same: And that the said C. D. was, at the time of such finding and seizing of the said goods, wares and merchandizes at the parish aforesaid, employed in carrying the same, she the said C. D. then and there well knowing the same goods, wares and merchandizes to have been clandestinely run and imported as aforesaid, without payment of the said duties of customs, contrary to the form of the statute in such case made and provided; whereby, and by force of the said statute, the said C. D. hath forfeited the sum of — l. being treble the value of the said goods, wares and merchandizes so found and seized as aforesaid; one moiety thereof to the said A. B. the said informer, and the other moiety thereof to the poor of the parish of —, being the parish where the said offence was committed: And the said A. B. who prosecutes as aforesaid, prays that the said C. D. may be convicted of the said offence; and that one moiety of the said forfeiture may be adjudged to the said A. B. and the other moiety thereof to the poor of the said parish of —, according to the form of the statute in such case made and provided: And that the said C. D. may be summoned to answer the said complaint and information, and to make defence thereto,

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If the wife is met with carrying goods without the husband's privity, she must be prosecuted alone, according to this information.

If they are met together, it is the offence of the husband alone, and he must be prosecuted alone in the same manner as above.

Although the husband is not met with the wife, yet, if there is proof that he is privy to or authorises the act, in that case he must be prosecuted without his wife.

No. II.

Form of an information before one justice of the peace, upon the acts 9 Geo. 2. chap. 35. sect. 21. 18 Geo. 2. chap. 26. sect. 14. 24 Geo. 2. chap. 40. sect. 29. * against a married woman found carrying goods *liable to duties under the management of the commissioners of excise*, and which she knew had been clandestinely run and imported without payment thereof.

* 2d Burn's Justice, p. 13 and 26.

County of } **B** *E* it remembered, that on the — day of — in the — year of the reign of our sovereign lord George the third, now king of Great Britain, &c. and in the year of our Lord one thousand seven hundred and —, at — in the county of —, A. B. of — in the said county of —, who prosecutes as well for our sovereign lord the king, as for himself, in this behalf, in his proper person cometh before me —, one of the justices of our lord the king, assigned to keep the peace of our said lord the king in and for the said county of —, and also to hear and determine divers felonies, trespasses and other misdemeanors in the said county committed, and as well for our said sovereign lord the king, as for himself, giveth me the said justice to understand and be informed, That after the 24th day of June, 1736, to wit, on the — day of — in the year of our Lord one thousand seven hundred and —, at the parish of — in the said county of —, one — being one of his majesty's officers of the customs, did find and seize upon and in the custody of one C. D. the wife of E. D. late of — in the said county of —, divers, to wit, eight gallons of foreign brandy, of great value, to wit, of the value of —l. of lawful money of Great Britain, being goods, wares and merchandizes liable to the payment of the duties of excise and

customs, to and for the use of his said majesty, which had been brought from parts beyond the seas by way of merchandize, and had been unshipped and clandestinely run and imported into this kingdom, to wit, to the parish of ———— aforesaid, without payment of the said duties for the same: And that the said C. D. was, at the time of such finding and seizing of the said goods, wares and merchandizes at the parish aforesaid, employed in carrying the same, she the said C. D. then and there well knowing the same goods, wares and merchandizes to have been clandestinely run and imported as aforesaid, without payment of the said duties of excise and customs, contrary to the form of the statutes in such case made and provided; whereby, and by force of the said statutes, the said C. D. hath forfeited the sum of ————l. being treble the value of the said goods, wares and merchandizes so found and seized as aforesaid; one moiety thereof to the said A. B. the said informer, and the other moiety thereof to our said sovereign lord the king. And the said A. B. who prosecutes as aforesaid, prays that the said C. D. may be convicted of the said offence; and that one moiety of the said forfeiture may be adjudged to the said A. B. and the other moiety thereof to our said sovereign lord the king, according to the form of the statutes in such case made and provided: And that the said C. D. may be summoned to answer the said complaint and information, and to make defence thereto.

See the note at the foot of the preceding information, as to prosecuting the wife or the husband.

No. III.

Form of an information before one justice of the peace, upon the act 9 Geo. 2. chap. 35. sect. 21. * against a married woman found carrying prohibited goods, she knowing the same to be so.

* 2d Burn's Justice, p. 13.

County of } **B** **E** it remembered, that on the ——— day of ——— in the ——— year of the reign of our sovereign lord George the third, now king of Great Britain, &c. and in the year of our Lord one thousand seven hundred and ———, at ——— in the county of ———, A. B. of ——— in the said county of ———, who prosecutes as well for the poor of the parish of ——— in the said county, as for himself, in this behalf, in his proper person cometh before me ———, one of the justices of our lord the king, assigned to keep the peace of our said lord the king in and for the said county

county of —, and also to hear and determine divers felonies, trespasses, and other misdemeanors in the said county committed, and as well for the poor of the parish of — in the said county, as for himself, giveth me the said justice to understand and be informed, That after the 24th day of June 1736, to wit, on the — day of —, in the year of our Lord one thousand seven hundred and —, at the parish of — in the said county of —, one —, being one of his majesty's officers of the customs, did find and seize upon and in the custody of one C. D. the wife of E. D. late of — in the said county of —, divers, to wit, — of great value, to wit, of the value of — l. of lawful money of Great Britain, being goods, wares and merchandizes prohibited to be imported into this kingdom, which had been brought from parts beyond the seas by way of merchandize, and had been unshipped and clandestinely run and imported into this kingdom, to wit, to the parish of — aforesaid; and that the said C. D. was, at the time of such finding and seizing of the said goods, wares and merchandizes at the parish aforesaid, employed in carrying the same, she the said C. D. then and there well knowing the same goods, wares and merchandizes to have been clandestinely run and imported as aforesaid, and to have been prohibited as aforesaid, contrary to the form of the statute in such case made and provided; whereby, and by force of the said statute, the said C. D. hath forfeited the sum of — l. being treble the value of the said goods, wares and merchandizes so found and seized as aforesaid; one moiety thereof to the said A. B. the said informer, and the other moiety thereof to the poor of the parish of —, being the parish where the said offence was committed: And the said A. B. who prosecutes as aforesaid, prays that the said C. D. may be convicted of the said offence, and that one moiety of the said forfeiture may be adjudged to the said A. B. and the other moiety thereof to the poor of the said parish of —, according to the form of the statute in such case made and provided; and that the said C. D. may be summoned to answer the said complaint and information, and to make defence thereto.

See the note, as before, in regard to prosecuting the husband or the wife.

Excise and Customs.

No. IV.

Form of a summons of a married woman before one justice of the peace, upon the act 9 Geo. 2. chap. 35. sect. 21. for carrying run or prohibited goods.

To C. D. the wife of E. D. late of ——— in the county of ———.

County of } *W*HEREAS an information hath this day
 ———. } been made by A. B. of ——— in the
 county of ———, who prosecutes as well for ——— as for
 himself, in this behalf, before me ——— esq. one of the justices
 of our lord the now king, assigned to keep the peace of our said
 lord the king in and for the said county of ———, and also
 to hear and determine divers felonies, trespasses and other mis-
 demeanors in the said county committed, setting forth, That after
 the 24th day of June 1736, to wit, on the ——— day of ———
 in the year of our lord ———, at the parish of ——— in the
 said county of ———, one ———, being one of his majesty's
 officers of the customs, did find and seize upon and in the cus-
 tody of you C. D. the wife of E. D. late of ——— in the said
 county, ———, ——— of great
 value, to wit, of the value of ——— l. of lawful money of
 Great Britain, being goods, wares and merchandizes ———

which had been brought from parts beyond the seas by way of
 merchandize, and had been unshipped and clandestinely run and
 imported into this kingdom, to wit, to the parish of ———
 aforesaid; and that you the said C. D. was, at the time of
 such finding and seizing of the said goods, wares and mer-
 chandizes at the parish aforesaid, employed in carrying the
 same, you the said C. D. then and there well knowing the
 same goods, wares and merchandizes to have been clandestinely
 run and imported as aforesaid, ———
 ——— contrary to the form of the statute in such case
 made and provided; whereby, and by force of the said statute,
 you the said C. D. have forfeited the sum of ——— l. being
 treble the value of the said goods, wares and merchandizes so
 found and seized as aforesaid; one moiety thereof to the said
 A. B. the said informer, and the other moiety thereof to ———,
 and praying that you the said C. D. may be convicted of the said
 offence; and that one moiety of the said forfeiture may be ad-
 judged to the said A. B. and the other moiety thereof to ———,
 according to the form of the statute in that case made and pro-
 vided:

vided: These are therefore to require you the said C. D. to appear before me at the house of ———, situate in ———, on ——— the ——— day of ——— next ensuing, at the hour of ——— in the forenoon, to answer the matter of complaint contained in the said information, and to shew cause (if any you have) why you should not be convicted of the said offence charged in the said information. Given under my hand and seal at ———, the ——— day of ———, in the year of our Lord ———.

The distinction severally pointed out in the three forms of informations foregoing must be observed in the summons, so as to meet the fact of the goods being prohibited or uncustomed goods, &c.

No. V.

Form of a conviction of a person on the act 9 Geo. 2. chap. 35. sect. 21. before one justice of the peace, for carrying run or prohibited goods, and the person does not appear.

County of { *BE* it remembered, that on the ——— day of ———, in the ——— year of the reign of our sovereign lord George the third, king of Great Britain, and so forth, and in the year of our Lord ———, at ——— in the said county of ———, A. B. of ——— in the said county of ———, who prosecutes as well for ——— as for himself, in this behalf, in his proper person cometh before me ———, one of the justices of our said lord the king, assigned to keep the peace of our said lord the king in and for the said county, and also to hear and determine divers felonies, trespasses and other misdemeanors in the said county committed; and as well for ——— as for himself, giveth me the said justice to understand and be informed, That after the 24th day of June 1736, to wit, on the ——— day of ——— in the year of our Lord ———, at the parish of ——— in the said county of ———, one ———, being one of his majesty's officers of the customs, did find and seize upon and in the custody of C. D. the wife of E. D. late of ——— in the said county, ——— of great value, to wit, of the value of ——— l. of lawful money of Great Britain, being goods, wares and merchandizes ——— which had been brought from parts beyond the seas by way of merchandize, and had been unshipped and clandestinely run and imported into this kingdom, to wit, to the parish of ——— aforesaid; and that the said C. D. was, at the

The act 9 Geo. 2. ch. 35. sect. 21. authorises one justice to convict.

the time of such finding and seizing of the said goods, wares and merchandizes at the parish aforesaid, employed in carrying the same, she the said C. D. then and there well knowing the same goods, wares and merchandizes to have been clandestinely run and imported as aforesaid, —————

————— contrary to the form of the statute in such case made and provided : whereby and by force of the said statute the said C. D. hath forfeited the sum of ——— l. being treble the value of the said goods, wares and merchandizes so found and seized as aforesaid, one moiety thereof to the said A. B. the said informer, and the other moiety thereof to ———. And the said A. B. who prosecutes as aforesaid, prays that the said C. D. may be convicted of the said offence, and that one moiety of the said forfeiture may be adjudged to the said A. B. and the other moiety thereof to ———, according to the form of the statute in that case made and provided. [And afterwards, on the ——— day of ———, in the year aforesaid, at the parish of ——— aforesaid, in the county of ——— aforesaid, the said C. D. having been previously duly summoned to appear before me the said ———, so being such justice as aforesaid, at this time and place, to answer the matter of complaint contained in the said information, (which is now duly proved before me upon the oath of ———,) (a) and the said C. D. being now here solemnly called, does not appear, but therein makes default, and does not make any defence to the said charge contained in the said information. Whereupon I the said ——— so being such justice as aforesaid, do now proceed to examine into the truth of the said complaint contained in the said information : and thereupon, on the same day and year last aforesaid, at the parish of ——— aforesaid, in the county aforesaid, one ———, a credible witness in this behalf, cometh before me the said justice, in his proper person, and on his corporal oath upon the holy evangelists of God, now administered to him by me the said justice, (I the said justice having competent power and authority to administer the said oath to the said ——— in this behalf) he the said ——— deposeth and saith, that

If the defendant appears and makes defence, then, instead of the part included within crotchets [], use the form next following.

(a) See this more fully stated in the general form of a conviction, title Conviction, ante p. 20.

In all convictions the evidence must be set out correctly, and in these convictions the following circumstances should be stated, viz. the time, place, and manner of seiz-

ture; the circumstances to prove the goods to be run goods, &c. and the want of a permit, where a permit is required by law, is a material one; the circumstances to prove that the defendant knew them to be run goods, &c. and the value of the goods."

And also on the same — day of — in the year of our Lord — aforesaid, at — aforesaid, one — another credible witness, comes before me the said justice, and on his corporal oath upon the holy evangelists of God, now administered to him by me the said justice, deposeth and saith, That

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Whereupon all and singular the premisses being considered, and mature deliberation being thereupon had, it manifestly appears to me the said justice, that the said C. D. is guilty of the premisses above charged upon her, in manner and form as in and by the said information is alledged. It is therefore adjudged by me the said justice, that the said — be convicted,
I
and

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and she is hereby convicted by me the said justice of the said offence, charged upon her in and by the said information, according to the form of the statute in that case made and provided. And I do award and adjudge, that the said C. D. for her said offence, hath forfeited and do forfeit the sum of ——— l. of lawful money of Great Britain, being treble the value of the said goods, wares and merchandizes so found and seized as aforesaid, to go and be distributed, one moiety thereof to ———, and the other moiety thereof to the said A. B. the said informer, according to the form of the said statute made and provided. In witness whereof, I the said justice to this record of conviction have put my hand and seal, at the parish of ——— aforesaid, in the county of ——— aforesaid, the said ——— day of ——— in the said ——— year of the reign of our said sovereign lord king George the third, &c. and in the year of our Lord ———

See the distinction observed in the three forms of informations aforegoing, in respect to the goods being uncustomed or prohibited, which distinction must be correctly attended to in the conviction.

No. VI.

Form on the act 9 Geo. 2. chap. 35. sect. 21. to be used in the conviction where defendant appears and defends.

AND afterwards, on the ——— day of ——— in the year aforesaid, at the parish of ——— aforesaid, in the county of ——— aforesaid, she the said C. D. personally appearing and being present before me, in pursuance of my summons issued for that purpose, is asked by me if she can say any thing for herself, why she the said C. D. should not be convicted of the premisses above charged upon her, in form aforesaid, who pleadeth, that she is not guilty of the said offence above charged upon her, in form aforesaid; whereupon I do now proceed to examine into the truth of the said complaint contained in the said information: And hereupon, on the same day and year last aforesaid, at the parish of ——— aforesaid, in the county aforesaid, one ——— a credible witness in this behalf, cometh before me the said justice in his proper person, and on his corporal oath upon the holy evangelists of God, now administered to him by me the said justice, (I the said justice having competent power and authority to administer the said oath to the said

said ——— in this behalf,) he the said ——— deposeth and saith, in the presence and hearing of the said C. D. That

If the witness is cross-examined, say: And the said ——— being cross-examined by the said C. D. on his oath, saith, &c.

And also on the same ——— day of ——— in the year of our Lord ——— afore said, at ——— afore said, one ——— another credible witness, comes before me the said justice, and on his corporal oath upon the holy evangelists of God, now administered to him by me the said justice, deposeth and saith, in the presence and hearing of the said C. D. That

Cross examination to be added as before. ———

If the defendant produces witnesses, insert their evidence in the same manner as before.

No. VII.

Form of a warrant of distress against a person on the act 9 Geo. 2. chap. 35. sect. 21. before one justice of the peace, for carrying run or prohibited goods, and returns of *nulla bona*, and where part is levied.

To the constable of ——— in the county of ———

County of } **WHEREAS** by a certain conviction under my
 ——— hand and seal, bearing date the ——— day
 of ——— in the year of our Lord ———, one C. D. the wife of
 E. D. late of the parish of ——— in the county of ———, was
 and is duly convicted before me ———, one of the justices of our
 lord the king, assigned to keep the peace of our said lord the king
 in and for the said county, and also to hear and determine divers
 felonies, trespasses and other misdemeanors in the said county com-
 mitted, upon the information of A. B. of ——— in the said
 county of ———, who prosecuted as well for ——— as for himself,
 in this behalf, and upon the oaths of ———, credible witnesses
 in

Excise and Customs.

in that behalf, of a certain offence committed by the said C. D. For that after the twenty-fourth day of June 1736, to wit, on the — day of — in the year of our Lord —, at the parish of — in the said county of —, one —, being one of his majesty's officers of the customs, did find and seize upon and in the custody of the said C. D. — of great value, to wit, of the value of — l. of lawful money of Great Britain, being goods, wares and merchandizes — which had been brought from parts beyond the seas by way of merchandize, and had been unshipped and clandestinely run and imported into this kingdom, to wit, to the parish of — aforesaid: and for that the said C. D. was, at the time of such finding and seizing of the said goods, wares and merchandizes at the parish aforesaid, employed in carrying the same, &c. the said C. D. then and there knowing the same goods, wares and merchandizes to have been clandestinely run and imported as aforesaid, — contrary to the form of the statute in such case made and provided: and the said C. D. was for her said offence by me adjudged to forfeit the sum of — l. of lawful money of Great-Britain, being treble the value of the goods, wares and merchandizes so found and seized as aforesaid, to be distributed, and to go and be applied, one moiety thereof to —, and the other moiety thereof to the said A. B. the said informer, according to the form of the statute in such case made and provided. These are therefore to command you to levy the said sum of — l. being treble the value of the said goods, wares and merchandizes so found and seized as aforesaid, by distress and sale of the goods and chattels of the said C. D. And I do hereby order and direct the goods and chattels, so to be distrained, to be sold and disposed of within * eight days, unless the said sum of — l. for which such distress shall be made, together with the reasonable charges of taking and keeping such distress, shall be sooner paid: and you are hereby commanded to certify to me the said justice, on the † — day of — next ensuing, what you shall do by virtue of this my warrant. Given under my hand and seal, at the parish of — aforesaid, in the said county of —, the — day of — in the — year of the reign of our said sovereign lord king George the third, &c. and in the year of our Lord —.

* By the act 27 Geo. 2. chap. 20. the justice has a power to direct the goods to be sold within a time, to be limited in his warrant, being not less than four days nor more than eight days, unless the penalty and charges of taking and keeping such distress be sooner paid.

† There should be a day limited for the return of the warrant, which may be left to the discretion of the justice.

See the distinction observed in the three forms of informations foregoing, in regard to the goods being uncustomed or prohibited, which distinction must be correctly attended to in the warrant.

Return

Return of Nulla Bona to be indorsed upon the Warrant.

*I Do hereby certify to — the justice within named, That the within named C. D. hath not any goods or chattels whereof I can levy the within mentioned sum of — l. or any part thereof, as within I am commanded. Dated this * — day of —*

* To be dated the day of the return of the warrant.

A. B. Constable of the parish of
— within named.

Return to be made where part is levied.

I Do hereby certify to — the justice within named, That, by virtue of the within warrant, I have levied, by distress and sale of the goods and chattels of the within named C. D. the sum of † — l. in part of the within mentioned sum of — l. which said sum of — l. I have ready before the said justice, at the day within contained, as within I am commanded: and I do further certify to the said justice, that the said C. D. hath not any other goods or chattels whereof I can levy the residue of the said sum of — l. or any part thereof, as within I am commanded. Dated this — day of —

† Here must be inserted the sum raised, after deducting the reasonable charges of taking, keeping and selling the distress, which the officer has a right to deduct under 27 Geo. 2. chap. 20.

A. B. Constable of the parish of
— within named.

No. VIII.

Form of a warrant of commitment to the house of correction (for want of distress, or where part is levied) of a person, upon the act 9 Geo. 2. chap. 35. sect. 21. for carrying run or prohibited goods.

To the Constable of — in the county of —, and to the keeper of the house of correction at — in the said county.

County of } *WHEREAS C. D. the wife of —, late of — the parish of — in the said county of —, on the — day of — last past, was duly convicted before me —, one of the justices of our lord the king, assigned to keep the peace of our said lord the king in and for the said county of —, and also to hear and determine divers felonies, trespasses and other misdemeanors in the said county committed, upon the information of A. B. of — in the said county of —, who prosecuted as well for — as for himself in this behalf,*

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half, and upon the oaths of ——— credible witnesses in that behalf, of a certain offence committed by the said C. D. For that, after the 24th day of June 1736, to wit, on the ——— day of ——— in the year of our Lord ———, at the parish of ——— in the said county of ———, one ———, being one of his majesty's officers of the customs, did find and seize upon and in the custody of the said C. D. ——— of great value, to wit, of the value of ——— l. of lawful money of Great-Britain, being goods, wares and merchandizes,

which had been brought from parts beyond the seas by way of merchandize, and had been unshipped and clandestinely run and imported into this kingdom, to wit, to the parish of ——— aforesaid, ——— and for that the said C. D. was, at the time of such finding and seizing of the said goods, wares and merchandizes at the parish aforesaid, employed in carrying the same, she the said C. D. then and there well knowing the same goods, wares and merchandizes to have been clandestinely run and imported aforesaid, ———

contrary to the form of the statute in such case made and provided: And the said C. D. was, for her said offence, by me adjudged to forfeit the sum of ——— l. of lawful money of Great Britain, being treble the value of the said goods, wares, and merchandizes so found and seized as aforesaid, to be distributed and to go and be applied, one moiety thereof to ———, and the other moiety thereof to the said A. B. the said informer, according to the form of the statute in such case made and provided: And whereas on the ——— day of ——— last past, in the year aforesaid, I did issue my warrant to the constable of ———, commanding him to levy the said sum of ——— l. being treble the value of the goods, wares, and merchandizes so found and seized as aforesaid, by distress and sale of the goods and chattels of her the said C. D. and that the said constable should certify to me the said justice, on the ——— day of ——— now last past, what he should do by virtue of my said warrant. [And whereas it duly appears to me, by the return of ———, constable of ——— aforesaid, dated the said ——— day of ——— last past, that the said C. D. hath not any goods or chattels whereof he could levy the said sum of ——— l. or any part thereof, as by the said warrant he was commanded.] These are therefore to command you the said constable of ——— aforesaid, to apprehend the said C. D. and her safely to convey to the house of correction at ——— aforesaid, and there to deliver her to the said keeper thereof, together with this precept: And I do hereby command you, the said keeper of the said house of correction, to receive she

Leave out the clause within crotchets [] where part is levied, and insert instead thereof those within crotchets [] in the following page.

the said C. D. into the said house of correction, and there to whip her, and keep her to hard labour for the space of* —, and for your so doing, this shall be your sufficient warrant. Given under my hand and seal, at — this — day of —, in the — year of the reign of his present majesty king George the third, and in the year of our Lord —

* The time must not exceed three months, which means lunar months.

See the distinction observed in the three forms of informations foregoing, in regard to the goods being uncustomed or prohibited, which distinction must be correctly attended to in the warrant.

[And whereas it duly appears to me, by the return of —, constable of — — — — —, dated the said — day of — last past, that, by virtue of the said warrant to him directed, he had levied by distress and sale of the goods and chattels of the said C. D. the sum of — — — — — l. in part of the said sum of — — — — — l. which said sum of — — — — — l. the said constable had ready before me as he was commanded: And it farther appears to me, by the return of the said constable, that the said C. D. hath not any other goods or chattels whereof he could levy the residue of the said sum of — — — — — l. or any part thereof, as by the said warrant he was commanded.]

No. IX.

Form of an information against a person for harbouring run goods, on the act 11 Geo. 1. chap. 30. sect. 16. before two justices of the peace. *2 Burn's Justice, pa. 37.*

County of } **BE** it remembered, that on the — day of — — — — — in the — year of the reign of our sovereign lord George the third, now king of Great-Britain, &c. and in the year of our Lord one thousand seven hundred and — — — — —, at — — — — — in the county of — — — — —, cometh A. B. of — — — — — in the said county of — — — — —, in his proper person, before us* — — — — — being two of the justices of our lord the king, assigned to keep the peace of our said lord the king in and for the said county of — — — — —, and also to hear and determine divers felonies, trespasses and other misdemeanors committed within the said county,† residing near to the place where the forfeiture and offence herein after-mentioned was made and committed, and as well for his said majesty as for himself, giveth us the said justices to understand and be informed, That after the twenty-fourth day of June 1725, to wit, on the — day

* There must be two justices to convict on 11 Geo. 1. chap. 30. sect. 16. because the jurisdiction is given by reference to the statute 12 Car. 2. chap. 23. which requires two justices.

† The statute 12 Car. 2. chap. 23. sect. 31. gives the power of adjudication to two justices residing near to

the place where
the forfeitures
shall be made,
or offence com-
mitted.

of —, in the year of our Lord one thousand seven hundred and —, at the parish of — in the said county of —, one C. D. the wife of E. D. late of — in the said county of —, did knowingly harbour, keep and conceal, and did knowingly permit and suffer to be harboured, kept and concealed, divers, to wit, — of great value, to wit, of the value of — l. of lawful money of Great-Britain, being goods, wares and merchandizes liable to the duties of customs to his said majesty, which had been brought from parts beyond the seas by way of merchandize, and had been unshipped and unlawfully and clandestinely run and imported into this kingdom, to wit, to the parish of — aforesaid, without payment of the said duties due for the same, contrary to the form of the statute in such case made and provided; whereby, and by force of the said statute, the said C. D. hath for her said offence forfeited and lost, not only the said goods, wares and merchandizes so harboured, kept and concealed as aforesaid, but also the sum of — l. of lawful money of Great-Britain, being treble the value of the said goods, wares and merchandizes so harboured, kept and concealed as aforesaid; one moiety thereof to the use of his said majesty, and the other moiety thereof to the said A. B. the said informer: And thereupon the said A. B. who prosecutes as aforesaid, prays that the said goods, wares and merchandizes may be condemned to be forfeited; and that the said C. D. may be convicted of the said offence; and that one moiety of the said forfeitures and penalties may be adjudged to our said lord the king, and the other moiety thereof to the said A. B. according to the form of the statute in such case made and provided: And that the said C. D. may be summoned to answer the said complaint and information, and to make defence thereto.

The directions given with respect to proceedings on the act 9 Geo. 2. chap. 35. sect. 21. and the distinction made where the goods are prohibited or uncustomed, must be observed in all respects in this information, and all other subsequent proceedings on the act 11 Geo. 1. chap. 30. sect. 16.

No. X.

Form of a summons of a person for harbouring
run goods, on the act 11 Geo. 1. chap. 30. sect.
16.

To C. D. the wife of E. D. late of ——— in the county
of ———.

County of } *W*HEREAS an information hath this
——— day been made by A. B. of ——— in
the county of ———, who prosecutes as well for his said ma-
jesty as for himself in this behalf, before us ———, being
two of the justices of our lord the king, assigned to keep the peace
of our said lord the king in and for the said county of ———,
and also to hear and determine divers felonies, trespasses, and
other misdemeanors in the said county committed, residing near
to the place where the forfeiture and offence herein-after men-
tioned was made and committed, setting forth, That after the
24th day of June 1725, to wit, on the ——— day of ———, in
the year of our Lord one thousand seven hundred and ———,
at the parish of ——— in the said county of ———, you C. D.
the wife of E. D. late of ——— in the said county of ———,
did knowingly harbour, keep, and conceal, and did knowingly
permit and suffer to be harboured, kept, and concealed, divers,
to wit, ———

———, of great value, to wit, of the value of ——— l.
of lawful money of Great Britain, being goods, wares, and
merchandizes liable to the duties of customs to his said majesty,
which had been brought from parts beyond the seas by way of
merchandise, and had been unshipped and unlawfully and clan-
destinely run and imported into this kingdom, to wit, to the
parish of ——— aforesaid, without payment of the said duties
due for the same, contrary to the form of the statute in such
case made and provided; whereby, and by force of the said
statute, you the said C. D. have forfeited and lost not only the
said goods, wares, and merchandizes so harboured, kept, and
concealed as aforesaid, but also the sum of ——— l. of lawful
money of Great Britain, being treble the value of the said
goods, wares, and merchandizes so harboured, kept, and con-
cealed as aforesaid; one moiety thereof to the use of his said
majesty, and the other moiety thereof to the said A. B. the said
informer; and praying that the said goods, wares, and mer-
chandizes may be condemned to be forfeited, and that you the
said C. D. may be convicted of the said offence; and that one
moiety of the said forfeitures and penalties may be adjudged to

Excise and Customs.

our said lord the king, and the other moiety thereof to the said A. B. according to the form of the statute in that case made and provided: These are therefore to require you the said C. D. to appear before us at the house of —, situate in —, on the — day of — next ensuing, at the hour of — in the forenoon, to answer the matter of complaint contained in the said information, and to shew cause (if any you have) w^y the said goods, wares, and merchandizes should not be condemned, and why you should not be convicted of the said offence charged in the said information. Given under our hands and seals, at —, the — day of —, in the year of our Lord one thousand seven hundred and —.

No. XI.

Form of a conviction of a person for harbouring
run goods, on the act 11 Geo. 1. chap. 30.
sect. 16.

County of **BE** it remembered, that on the — day of —, — in the — year of the reign of our sovereign lord George the third, king of Great Britain, and so forth, and in the year of our Lord one thousand seven hundred and —, at — in the said county of —, A. B. of — in the said county of —, who prosecutes as well for his said majesty as for himself in this behalf, in his proper person cometh before us —, being two of the justices of our said lord the king, assigned to keep the peace of our said lord the king in and for the said county of —, and also to hear and determine divers felonies, trespasses, and other misdemeanors in the said county committed, residing near to the place where the forfeiture and offence herein-after mentioned was made and committed, and, as well for his said majesty as for himself, giveth us the said justices to understand and be informed, That after the 24th day of June 1725, to wit, on the — day of —, in the year of our Lord one thousand seven hundred and —, at the parish of — in the said county of —, one C. D. the wife of E. D. late of — in the said county of —, did knowingly harbour, keep, and conceal, and did knowingly permit and suffer to be harboured, kept, and concealed, divers, to wit, —, of great value, to wit, of the value of — 1. of lawful money of Great Britain, being goods, wares, and merchandizes liable to the duties of customs to his said majesty, which had been brought from parts beyond the seas by way of merchandize, and had been unshipped and unlawfully

lawfully and clandestinely run and imported into this kingdom, to wit, to the parish of ——— aforesaid, without payment of the said duties due for the same, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in that case made and provided, the said C. D. hath for her said offence forfeited and lost not only the said goods, wares, and merchandizes so harboured, kept, and concealed as aforesaid, but also the sum of ——— l. of lawful money of Great Britain, being treble the value of the said goods, wares, and merchandizes so harboured, kept, and concealed as aforesaid, one moiety thereof to the use of his said majesty, and the other moiety thereof to the said A. B. the said informer: And the said A. B. who prosecutes as aforesaid, prays that the said goods, wares, and merchandizes may be condemned to be forfeited, and that the said C. D. may be convicted of the said offence, and that one moiety of the said forfeitures and penalties may be adjudged to our said lord the king, and the other moiety thereof to the said A. B. according to the form of the statute in that case made and provided. And afterwards, on the ——— day of ——— in the year aforesaid, at the parish of ——— aforesaid, in the said county of ———, the said C. D. having been previously duly summoned to appear before us the said ———, so being such justices as aforesaid, at this time and place, to answer the matter of complaint contained in the said information, (which is now duly proved before us upon the oath of ——— *), and the said C. D. being solemnly called, doth not appear, but therein makes default, and does not make any defence to the said charge contained in the said information: Whereupon we the said ———, so being such justices as aforesaid, do now proceed to examine into the truth of the said complaint contained in the said information: And hereupon, on the same day and year last aforesaid, at the parish of ——— aforesaid, in the county of ——— aforesaid, one ———, a credible witness in this behalf, cometh before us the said justices in his proper person, and on his corporal oath upon the holy evangelists of God, now administered to him by us the said justices, (we the said justices having competent power and authority to administer the said oath to the said ——— in this behalf,) he the said ——— deposeth and saith, that

* See this more fully stated in the general form tit. conviction, antea pa. 20.

And also on the same ——— day of ———, in the year of our Lord one thousand seven hundred and ——— aforesaid, at ———

aforesaid, one —, another credible witness, comes before us the said justices, and on his corporal oath upon the holy evangelists of God, now administered to him by us the said justices, deposeth and saith, that

Whereupon, all and singular the premisses being considered, and mature deliberation being thereupon had, it manifestly appears to us the said justices, that the said C. D. is guilty of the premisses above charged upon her, in manner and form as in and by the said information is alledged: It is therefore adjudged by us the said justices, that the said C. D. be convicted, and she is hereby convicted by us the said justices of the said offence charged upon her, in and by the said information, according to the form of the statute in that case made and provided: and we do award and adjudge, that the said C. D. for her said offence, hath forfeited and lost, and do forfeit and lose, not only the said goods, wares and merchandizes so harboured, kept and concealed, but also the sum of — l. of lawful money of Great Britain, being treble the value of the said goods, wares and merchandizes so harboured, kept and concealed as aforesaid; but we do mitigate the said penalty of — to the sum of — l. such forfeiture and sum of — l. to be distributed, and to go and be applied, one moiety thereof to the use of his said majesty, and the other moiety thereof to the said A. B. the said informer, according to the form of the statute in such case made and provided. In witness whereof we the said justices to this record of conviction have put our hands and seals, at the parish of — in the county of — aforesaid, the said — day of —, in the — year of the reign of our said sovereign lord king George the third, &c. and in the year of our Lord one thousand seven hundred and —.

By 12 Car. 2.
chap. 23. sect.
32. the justices
have authority,
if they see cause,
to mitigate the
penalty.

No. XII.

Form of a warrant to levy a penalty for harbouring run goods, on the act 11 Geo. 1. chap. 30. sect. 16.

To the constable of — in the county of —.

County of } *WHEREAS* by a certain conviction under our
— } *bands and seals, bearing date the — day*
of —, in the year of our Lord one thousand seven hun-
dred

dred and ———, one C. D. the wife of E. D. late of the parish of ——— in the said county of ———, was and is duly convicted before us ———

———, two of the justices of our lord the king, assigned to keep the peace of our said lord the king in and for the said county, and also to hear and determine divers felonies, trespasses and other misdemeanors in the said county committed, residing near to the place where the forfeiture and offence herein after mentioned was made and committed, upon the information of A. B. of ——— in the said county of ———, who prosecuted as well for his said majesty as for himself in this behalf, and upon the oaths of ———, credible witnesses in that behalf, of a certain offence committed by the said C. D. For that after the 24th day of June 1725, to wit, on the ——— day of ———, in the year of our Lord one thousand seven hundred and ———, at the parish of ——— in the said county of ———, the said C. D. did knowingly harbour, keep and conceal, and did knowingly permit and suffer to be harboured, kept and concealed, divers, to wit, ———

——— of great value, to wit, of the value of ——— l. of lawful money of Great Britain, being goods, wares and merchandizes liable to the duties of customs to his said majesty, which had been brought from parts beyond the seas by way of merchandize, and had been unshipped and unlawfully and clandestinely run and imported into this kingdom, to wit, to the parish of ——— aforesaid, without payment of the said duties due for the same, contrary to the form of the statute in such case made and provided; And the said C. D. was for her said offence by us adjudged to forfeit and lose not only the said goods, wares and merchandizes so harboured, kept and concealed, but also the sum of ——— l. of lawful money of Great Britain, being treble the value of the said goods, wares and merchandizes so harboured, kept and concealed as aforesaid; but we did mitigate the said penalty of ——— to the sum of ——— l. such forfeiture and sum of ——— l. to be distributed, and to go and be applied, one moiety thereof to the use of his said majesty, and the other moiety thereof to the said A. B. the said informer, according to the form of the statute in such case made and provided: These are therefore to command you to levy the said sum of ——— l. of lawful money of Great Britain, by distress of the goods and chattels of the said ———. And we do hereby order and direct the goods and chattels so to be distrained to be sold and disposed of by you within eight days, unless the said sum of ——— l. for which such distress shall be made, together with the reasonable charges of taking and keeping such distress, shall be sooner paid. And you are hereby commanded

Excise and Customs.

to certify to us the said justices, on the — day of — next ensuing, what you shall do by virtue of this our warrant. Given under our hands and seals, at the parish of — aforesaid, in the said county of —, the — day of —, in the — year of the reign of our sovereign lord king George the third, &c. and in the year of our Lord one thousand seven hundred and —.

Return of Nulla Bona to be indorsed upon the warrant.

I DO hereby certify to — the justices within named, that the within named C. D. hath not any goods or chattels whereof I can levy the within mentioned sum of — l. or any part thereof, as within I am commanded. Dated this * — day of —, in the year of our Lord one thousand seven hundred and —.

* To be dated the day of the return of the warrant.

A. B. Constable of — within named.

No. XIII.

Form of a warrant of commitment for a penalty for harbouring run goods, on the act 11 Geo. 1, chap. 30. sect. 16.

To the constable of —, in the county of —, and to the sheriff of the said county.

County of } **W**HEREAS C. D. the wife of E. D. late of the parish of — in the said county of —, on the — day of — last past, was duly convicted before us —, two of the justices of our lord the king, assigned to keep the peace of our said lord the king in and for the county of —, and also to hear and determine divers felonies, trespasses and other misdemeanors in the said county committed, residing near to the place where the forfeiture and offence herein after mentioned was made and committed, upon the information of A. B. of — in the said county of —, who prosecuted as well for his said majesty as for himself in this behalf, and upon the oaths of — credible witnesses in that behalf, of a certain offence committed by the said C. D. For that after the 24th day of June 1725, to wit, on the — day of —, in the year of our Lord one thousand seven hundred and —, at the parish of — in the said county of

of ———, the said C. D. did knowingly harbour, keep and conceal, and did knowingly permit and suffer to be harboured; kept and concealed, divers, to wit, ———

————— of great value, to wit, the value of ——— l. of lawful money of Great Britain, being goods, wares and merchandizes liable to the duties of customs to his said majesty, which had been brought from parts beyond the seas by way of merchandize, and had been unshipped and unlawfully and clandestinely run and imported into this kingdom, to wit, to the parish of ——— aforesaid, without payment of the said duties due for the same, contrary to the form of the statute in such case made and provided: And the said C. D. was, for her said offence, by us adjudged to forfeit and lose not only the said goods, wares and merchandizes so harboured, kept and concealed as aforesaid, but also the sum of ——— l. of lawful money of Great Britain, being treble the value of the said goods, wares and merchandizes so harboured, kept and concealed as aforesaid; but we did mitigate the said penalty of ——— l. to the sum of ——— l. such forfeiture and sum of ——— l. to be distributed, and to go and be applied, one moiety thereof to the use of his said majesty, and the other moiety thereof to the said A. B. the said informer, according to the form of the statute in that case made and provided. And whereas on the ——— day of ——— last past, in the year aforesaid, we did issue our warrant to the constable of ———, commanding him to levy the said sum of ——— l. of lawful money of Great Britain, by distress and sale of the goods and chattels of her the said C. D. and that the said constable should certify to us the said justices, on the ——— day of ——— now last past, what he should do by virtue of our said warrant. And whereas it duly appears to us, by the return of ———, constable of ——— aforesaid, dated the said ——— day of ——— last past, that the said C. D. hath not any goods or chattels whereof he could levy the said sum of ——— l. or any part thereof, as by the said warrant he was commanded: These are therefore to command you the said constable of ——— aforesaid, to apprehend the said ———, and her safely to convey and deliver to the said sheriff of the county of ———, together with this precept: And we do hereby command you the said sheriff to receive the said C. D. into your custody, and her to imprison in the common gaol for the said county, until satisfaction be made of the said sum of ——— l. and for your so doing this shall be your sufficient warrant. Given under our hands and seals, at ———, this ——— day of ———, in the ——— year of the reign of his present majesty king George the third,

By the act 13
Car. 2. chap.
22. sect. 31. the
offender is to be
imprisoned till
satisfaction be
made.

and

and in the year of our Lord one thousand seven hundred and —.

☞ Dele the two last lines of page 197, and the five first lines of page 198 of the 2d vol. of *Burn's Justice*, last edition.

Fisheries.

BY 35 G. 3. c. 56. *s. 1.* The acts of 26 G. 3. c. 81. and 27 G. 3. c. 18. relating to bounties granted to owners of ships employed in the white herring fishery, are further continued for two years from first *June* 1795, and from thence to the end of the then next session of parliament.

Friendly Societies.

Any number of persons may form themselves into a society, and make rules, &c.

BY 33 G. 3. c. 54. Any number of persons may form themselves and establish one or more society or societies of good fellowship, for raising by subscription of the members thereof, or by voluntary contribution, a fund for the mutual relief and maintenance of their members in old age, sickness, and infirmity; or for the relief of the widows and children of deceased members; and such members, or such number of them as shall be appointed a committee for that purpose, may assemble together, and make such rules, orders, and regulations for the government of the same, as to a majority of such society, or committee thereof so assembled shall seem meet, so as the same be not contrary to law, nor to this act: and they may impose such reasonable fines and forfeitures upon the members who shall offend against such rules, orders, and regulations, as shall be just and necessary for duly enforcing the same, to be paid for the use of such society, as they shall by such rules, orders or regulations direct; and they may alter and amend such rules, orders, and regulations as occasion shall require, or annul and repeal the same, and make new ones in lieu thereof. *s. 1.*

Provided,

Provided, that all such rules, orders, and regulations, with all convenient speed after the same shall be made, altered, or amended; and also after every making, altering, or amending thereof; shall be exhibited in writing to the justices at the sessions or adjournment thereof for the county or place where such society shall be established, and such rules, orders, and regulations shall be subject to the review of such justices, who may, after due examination at the then, or the next subsequent sessions, annul and make void all such rules, orders, or regulations as shall be repugnant to this act, and shall allow and confirm such as shall be conformable thereto; and after having been so confirmed, shall be signed by the clerk of the peace at such sessions, and a duplicate thereof on parchment shall be deposited with, and filed by the clerk of the peace at such sessions, without fee, and the same shall be binding upon all parties: And no such society which shall hereafter be established, shall be deemed to be within the meaning of this act, until good rules, orders, and regulations for the government thereof shall be confirmed and filed as aforesaid: And no society already established, shall be deemed to be within the intent and meaning of this act, unless all the rules, orders, or regulations under which the same is thereafter to be governed, shall be exhibited, confirmed, and filed in manner aforesaid, at some time before or at the *Michaelmas* sessions, or some adjournment thereof in the year 1794. *f. 2.* But by 35 G. 3. c. 111. *f. 1.* further time is given till *Michaelmas* sessions 1796.

Such rules, &c. to be exhibited to the sessions, who may annul or confirm them.

Provided, that no rule, order, or regulation confirmed in manner aforesaid shall be altered, rescinded, or repealed, unless at a general meeting of the members of such society, convened by publick notice in writing, signed by the secretary or clerk, in pursuance of a requisition by three or more members, and publicly read at the two usual meetings of such society held next before such general meeting for that purpose, unless a committee of such members shall have been nominated for that purpose, in which case such committee shall be convened in like manner; and unless such alteration or repeal shall be made with the approbation of three-fourths of the members then present, or by the like proportion of such committee as aforesaid; and such alteration or repeal shall be subject to the review of the justices at such sessions or adjournment as aforesaid; and shall not be binding until agreed to and confirmed by such justices, and filed as aforesaid. 33 G. 3. c. 54. *f. 3.*

No confirmed rules to be altered but at a general meeting. And to be subject to the review of the sessions.

And

Officers to be appointed.

And to give security if required.

Such securities not subject to any stamp duty.

Committees may be appointed.

And such society may at any general meeting, or by their committee if any such there be, appoint such persons into the office of steward, president, warden, treasurer, or trustee of such society, and such clerks and other officers as shall be deemed necessary for carrying into execution the purposes of such institution, and for such purposes as shall be fixed and established by the rules of such society; and appoint others in the room of those who shall vacate or die; and every such officer or other person who shall be appointed to the receipt, management, or expenditure of any money collected for the purpose of any such society, before he shall be admitted to take upon him the execution thereof, shall (if required by the rules of such society) become bound with two sufficient sureties, for the just and faithful execution of such office, and for rendering a true account according to the rules, orders, and regulations of such society, and in all matters lawful to obey the same, in such penal sum as the major part of such society, at such meeting as aforesaid, shall think expedient and to the satisfaction of such society; and such bond to be given by such treasurer or trustee, shall be given to the clerk of the peace of the county, riding, division, or shire where such society shall be established, without fee; and, in case of forfeiture, it shall be lawful to sue upon such bond in the name of the clerk of the peace for the time being, for the use of such society: and every such bond to be given by any other person appointed to any other office or trust as aforesaid, shall be given to the treasurer or trustee of such society for the time being, to be by him prosecuted for any forfeiture thereof for the use of such society; and no such bond or other security given in pursuance of this act shall be chargeable with any stamp duty. *s. 4.*

And every such society may elect any number of the members thereof, not less than eleven, to be a committee, and may delegate to such committee all or any of the powers given by this act to be executed; who shall continue to act as such committee for such time as they shall be appointed; and in all cases where a standing committee shall be appointed for general purposes, their powers shall be first declared in their rules, orders, and regulations confirmed and filed at the sessions as aforesaid: and where a committee shall be appointed for any particular purpose, the powers delegated to them shall be entered in a book by the secretary or clerk, and five of the members of such committee at least, shall be necessary to concur in any act of such committee; and they shall, in all things delegated to them,

them, act for and in the name of such society, which acts shall have the like force as if done at any general meeting. Provided, that the transactions of every such committee, shall be subject to the review, allowance, or disallowance and controul of such society, in such manner as by their rules, orders, and regulations confirmed and filed as aforesaid is directed. *f. 5.*

And such treasurer or trustee may, with the consent of such society, testified as directed by their rules and orders, lay out such part of the money belonging to such society as the exigences thereof shall not call for, either on private security to be approved of as aforesaid, (to be taken in the name of such treasurer or trustee,) or may vest the same in the publick funds in the name of such treasurer or trustee; and with such consent as aforesaid, may alter and transfer such securities and funds, and may make sale thereof respectively. And the dividends, interest, and proceeds thereof shall be brought to account by such treasurer or trustee, and shall be applied to the use of such society. *f. 7, 8.*

Provided, that the treasurer or trustee and all other officers of such society, who shall have or receive any money or effects of such society, or shall be entrusted with the disposition, management, or custody thereof, or of any security relating to the same, his executors, administrators, and assigns, shall, upon demand, in pursuance of any order of such society or committee, give in his account at a general meeting, or to such committee as aforesaid, to be examined, and allowed or disallowed, and shall, on like demand, pay over the money remaining in his hand, and assign or deliver all securities, effects, or funds, taken or standing in his name as aforesaid, or being in his custody, to the treasurer or trustee, or such other person as such society shall appoint; and in default thereof, such society, in the name of the treasurer or trustee, may exhibit a petition in *Chancery*, who may hear and determine the same, and assign counsel, and appoint a clerk of such court to carry on such petition, who are to act without fee; and no fee shall be taken by any officer of such court, and the proceedings therein shall not be chargeable with any stamp duty. *f. 8, 9.*

And if any person appointed to any office by any such society, and having in his hands any money or effects, or securities belonging to the same, shall die, or become a bankrupt, or insolvent, his executors, administrators, or assigns shall, within 40 days after demand made by the order

Surplus money
may be lent out
at interest.

Treasurers, &c.
to render
accounts, and
pay over ba-
lance, &c.

And on neglect,
application may
be made to the
court of chan-
cery.

Money due to
societies to be
paid before any
other debts.

Friendly Societies.

order of any such society, or the major part of them assembled at any meeting, deliver all things belonging to such society to such person as they shall appoint, and shall pay out of the assets or effects of such person, all money remaining due which such person received by virtue of his said office before any of his other debts, and all such assets and effects shall be bound to the payment thereof accordingly. *f. 10.*

Effects of societies to be vested in the treasurer, &c.

And all the effects whatever belonging to such society, shall be vested in the treasurer or trustee for the time being for the benefit of such society, and after their death or removal, shall vest in the succeeding treasurer or trustee without any assignment or transfer whatever, who may bring and defend actions, sue or be sued; and the same shall not be discontinued by the death or removal of such person. *f. 11.*

Societies to declare the purpose of their establishment, &c.

And before any of the rules, orders, or regulations of any such society shall be confirmed by the justices in manner aforesaid, it shall be declared by one or more of the general rules, orders or regulations of such society, the intent and purpose for which it is intended to be established, and shall also therein direct the uses and purposes to which the money which shall be subscribed, paid, or given for the benefit thereof, or shall arise therefrom, or belong thereto, shall be applied, and under what circumstances any member or other person shall become entitled to the same or any part thereof, which application shall not be repugnant to the uses, intents, and purposes of such society so declared as aforesaid; and such rules, orders, and regulations shall be complied with and enforced, and such monies shall not be misapplied, under such penalties or forfeitures as by any general rule, order, or regulation shall be inflicted. *f. 12.*

May inflict penalties.

Not to be dissolved without consent.

Provided, that it shall not be lawful for any such society to dissolve or determine the same so long as the intents and purposes declared by them remain to be carried into effect, without the consent of five-sixths of the then existing members, and also of all persons then receiving or entitled to receive relief, testified under their hands; nor shall such society direct the division or distribution of such stock or fund, or any part thereof, amongst the members, other than for carrying into effect the general intents and purposes thereof, declared by them, and confirmed by the justices as aforesaid; but all such rules, orders, or regulations for the dissolution of such society without such consent, shall be void. *id.*

And

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And all such rules, orders, and regulations shall be entered in a book to be kept by a member, and shall be signed by the members, and shall at all reasonable times be open for their inspection, and shall be deemed original orders, and shall be received in evidence in all courts; and no *certiorari* shall be allowed to remove any such rules, orders, or regulations into the courts at *Westminster*. *f. 13.*

And any such society may receive donations towards the supply of their stock, which shall be applied in like manner as the contributions of the several members, and in no other manner. *f. 14.*

If any person, being a member of any such society, shall think himself aggrieved by any act, matter or thing done or omitted by any such society, or person acting under them, two neighbouring justices, on complaint upon oath by, or on the behalf of such person, may summon the presidents, wardens, stewards, or other principal officers of such society by whatever name they shall be called, or any one of them, if such complaint be made against such society collectively; and in case such complaint shall be made against any person appointed to any such office as aforesaid, then to summon such person to appear before them, and also to summon to appear at the same time and place if there be occasion, all such persons as shall appear to have the custody of the rules, orders, and regulations of such society; and such justices at the time and place named in such summons, whether the person summoned appear or not, on proof upon oath of such summons having been duly served, or left at his usual place of abode, shall proceed peremptorily to hear and determine in a summary way the matter of such complaint according to the true purport and meaning of the rules, orders, and regulations of such society, confirmed by the justices as aforesaid, and shall make such order therein as to them shall seem just, which shall be final to all intents and purposes, and shall not be subject to appeal, nor removeable into the courts at *Westminster*. *f. 15.*

And where provision shall be made by the rules or orders of any such society, and confirmed as aforesaid, for a reference by arbitration of any dispute; the matter so in dispute shall be referred to such arbitrators as shall be named and elected in such manner as prescribed in such rules and orders; and whatever award, order, or determination shall be made by such arbitrators, or the major part of them, according to the true purport and meaning of the

H

rules

Rules and orders to be entered in a book, and received in evidence, &c.

Societies may receive donations.

Members thinking themselves aggrieved, may complain to two justices, who may hear and determine the same.

Where general rules direct disputes to be settled by arbitration.

rights thereof
in the hands of
-at law, good &
-ive of having

No member
producing a cer-
tificate thereof,
removeable till
actually charge-
able.

and the same
shall be given
to the person

shall be given
to the person
and the same
shall be given
to the person

How such
certificates are
to be authen-
ticated.

Justices may
summon persons
bringing certifi-
cates, to be
examined as to
their settle-
ments.

Copies of such
examinations to
be given to the

rules and orders of such society, shall be binding and con-
clusive without appeal, or being subject to the controul
of two justices in the manner herein before described. *f. 16.*

And no member of any society established in pursuance
of this act, who shall come to, or reside in any parish or
place not having a legal settlement there, and who shall
deliver to any churchwarden or overseer a certificate un-
der the hands of the stewards, presidents, wardens, or
treasurers of such society, or any two of them, attested by
one witness, thereby acknowledging the person mentioned
in such certificate to be a member of such society, shall,
during the time that he shall continue to be a member
thereof, be removeable from any place where such certi-
ficate hath been delivered as aforesaid, to the place of his
last legal settlement, until he shall become actually
chargeable, or be forced to ask relief for himself or his fa-
mily, or some part thereof; and that then, and not before,
such person and his family, not having otherwise acquired
a legal settlement there, may be removed to the place of
his last legal settlement. *f. 17.*

Provided always, that every such certificate shall express
the place of abode of the persons signing and attesting the
same, and one of the witnesses shall make oath before a
justice of the county, liberty, borough, town corporate, or
place where such society shall be established, that he did
see the persons whose names are thereunto set, severally
sign the said certificate, and that the names of such wit-
nesses are of their own proper hand-writing; which said
justice shall also certify that such oath was made before
him; and every such certificate so made, and oath of the
execution thereof so certified by the said justice, shall be
taken, deemed, and allowed in all courts whatsoever as
duly and fully proved, and be received as evidence without
other proof thereof. *f. 18.*

Provided always, that upon complaint made by the
churchwardens and overseers where such certificate shall
be delivered to any justice or justices of the county, di-
vision or shire, or city, borough, town corporate or place,
where such person shall reside, or come to reside under the
authority of this act, such justice or justices shall summon
such person before him or them, in the division or place
where such person shall reside or come to reside, in order
to be examined on oath touching the place of his last legal
settlement, and such person is required to obey such sum-
mons and make oath accordingly; and such justice or
justices is and are required to give an attested copy
of

of such examination so taken before him or them to the person making the same, to be by him, or any person on his behalf, at any time afterwards, produced before any such justices as aforesaid, before whom such person shall be again summoned to make oath as aforesaid; and that, in case any such person shall be so again summoned, then on the production of such attested copy, such person shall not be compelled to take any other or further oath with regard to any of the matters contained in such examination, but such person shall, if required, permit a copy thereof to be taken for such last-mentioned justices. *s. 19.*

parties, which shall exempt them from further examination.

And any two justices who shall have taken such examination as aforesaid, or before whom such attested copy of such examination shall be produced at the request of such churchwardens and overseers as aforesaid, shall, by an order under their hands and seals, adjudge and declare the place of the last legal settlement of such person having been so examined on oath as aforesaid, or of such of his family as shall reside in such parish or place under the authority of this act, without issuing any warrant to remove such person or his family as aforesaid, to such place of their last legal settlement: and a duplicate of such order shall be transmitted to the quarter sessions to be holden next after 20 days from the time of making thereof, for the county, riding, division, or shire where such person shall so reside, to be there filed; and a copy of every such order, attested by one justice, or a duplicate thereof, together with an attested copy of such examination to be annexed to such copy of such order or duplicate, shall be delivered to the churchwardens and overseers of the parish or place in which the person mentioned in such order shall be adjudged to be last legally settled as aforesaid, or to any or either of them, at least 15 days before the first day of holding such sessions; and upon proof on oath of one witness before the justices at such sessions, of the delivery of such copy or duplicate with such examination annexed as aforesaid, such justices shall direct the same to be filed at such sessions; and every such order so filed, shall be final and conclusive in ascertaining and determining the place of the last legal settlement of the persons named in such order, unless appealed against within the time herein-after mentioned. *s. 20.*

Two justices may declare, by an order, the place of settlement of such persons, without removing them.

A duplicate of such order to be transmitted to the sessions;

and a copy of such order and examination to be returned to the place of settlement.

Provided, that all persons who shall think themselves aggrieved by any such adjudication of such justices, may appeal to the next sessions to be holden next after 15 days from the time of the delivery of such copy or du-

Appeal.

Friendly Societies.

plicate as aforesaid; and such sessions shall receive such appeal, and hear and determine the merits thereof, in like manner, and with the same effect, and under the like rules, as if the persons mentioned in such orders, had been by warrant of two justices actually removed, and may award like costs, to be recovered in like manner as is directed by any statute now in being. *s. 21.*

Persons residing under this act shall gain no settlement by notice;

nor by paying taxes;

nor by being an apprentice, or servant to any such persons.

But no member of any such society, who shall reside in any parish or place under and by virtue of this act, shall acquire any settlement therein, by delivery and publication of any notice in writing, unless made after he shall cease to be a member thereof, and after the revocation of his certificate herein-before mentioned.—Nor by being rated to and paying any tax or rate.—Nor shall any apprentice, or hired servant to any such member of any such society, who shall so come or reside as aforesaid, not afterwards having gained a legal settlement in such parish or place, gain any settlement therein by reason of such apprenticeship or service. *s. 22, 23, 24.*

Bastards to have the mother's settlement.

And every child which shall be born a bastard in any parish or place during the mother's residence therein under the authority of this act, shall have the same settlement which the mother had at the time of the birth of such child, any law, usage, or custom to the contrary notwithstanding. *s. 25.*

Charges of maintenance and removal to be reimbursed.

And when any overseers shall have been put to any charge in maintaining any person or his family residing in any parish or place under the authority of this act, or in removing any person back to the place where he shall belong after he shall become chargeable, or ask relief as aforesaid, such overseer shall be reimbursed reasonable charges, by the overseers of the parish or place to which such person shall belong, such charges having been first ascertained and allowed by one justice residing near where such charges shall be incurred; and if not paid, may be levied by distress and sale of the goods and chattels of such overseers as last aforesaid, by warrant of one justice, returning the overplus, if any there be. *s. 26.*

Governors of institutions for relief of widows, &c. may frame rules, which are to be presented for confirmation as by the aforesaid act.

And, by 35 G. 3. c. 111. after reciting, that several benevolent and charitable institutions and societies formed for relieving by voluntary subscriptions and benefactions, widows, orphans, and families of the clergy, and others in distressed circumstances, may have funds which they may wish to place out on publick securities, under the management of a treasurer, and under the authority of parliament: It is enacted, that the governors, directors, managers,

managers, or members of any such institutions; may frame good and wholesome rules for the management and distributions of their funds, and amend and alter the same, or make new ones as occasion may require, which shall be presented to the justices for confirmation within the time herein-before limited, and registered under and subject to the same conditions, methods, restrictions, and regulations, as the members of the aforesaid societies. *f. 2.*

And the governors, directors, managers, or members of every such institution, whose rules shall be confirmed and registered as aforesaid, may appoint a treasurer, who shall give security as aforesaid, and shall be subject to account for the funds belonging to such institution, and the same shall be vested in such treasurer, who may sue and be sued in manner aforesaid; and all things in the aforesaid act contained, so far as the same relate to such treasurers and the funds vested in them, shall extend to the institutions established by virtue of this act, as fully and effectually as any society established by virtue of the aforesaid act. And all the powers, authorities, rules, methods, directions, regulations, provisions, conditions, and restrictions, in the said act contained, relating to the matters before mentioned, shall be applied to the several institutions established by virtue of this act, as fully as if the same had been repeated and re-enacted herein. *f. 3.*

Institutions
whose rules shall
be confirmed,
may appoint
treasurers, &c.

Game.

BY 31 G. 3. c. 21. *f. 1.* a further stamp duty of 1 l. 1 s. is imposed on certificates to be taken out for killing game.

Additional duty
on certificates.

And also 10 s. 6 d. more upon certificates taken out by gamekeepers. *id.*

Gamekeepers.

In the case of *Calcraft v. Gibbs*, M. 33 G. 3. L. Kenyon Ch. J. said, That the lord of a manor cannot convey to another the power of appointing a gamekeeper, without a conveyance also of the manor itself. Such a power is a mere emanation of the manor, and is inseparable from it. It is a mere shadow, accompanying the substance. *Durnf. and East*, 5 V. 19.

In the case of *Pesball v. Layton*, M. 29 G. 3. L. Kenyon Ch. J. said, That where several unqualified persons offended

Several unqualified persons
being out
together.

What shall be deemed using a gun with intention to kill game.

in going out together and killing a hare, that only one penalty can be recovered, though the prosecutor has his election which he will sue. *Durnf. and East*, 2 V. 712.

And in the case of *K. v. T. Davis*, H. 35 G. 3. which was a conviction on the above statute 5 An. c. 14. s. 4. for keeping and using a gun for the destruction of game. It appeared on the conviction, that on, &c. at, &c. "one credible witness, (viz.) R. Pyndar of Hadson aforesaid, (where the offence was committed,) upon his oath, &c. in the presence of the defendant, deposed, &c. that the aforesaid, T. Davis on, &c. at, &c. not having the qualifications, &c. (repeating them) did keep and use a certain engine called a gun, with intent to kill and destroy the game; and that he (the witness) was satisfied that the said T. Davis did keep and use the said gun for the purpose aforesaid, from the circumstance of his hearing a gun go off, and observing that it was fired by the said T. Davis, who was then walking about a piece of ground in the parish of Hadson aforesaid, with that apparent intent," &c. — *Erskine* and *Lane* took two objections to this conviction; 1st, That the witness was incompetent, because he was an inhabitant of the parish where the offence was committed; 2dly, If competent, that his evidence was not sufficient to support the conviction. The evidence is, that the defendant "did keep and use a certain engine called a gun, with intent to kill and destroy the game." If this had been a dog or a snare, this evidence perhaps would have been sufficient, but the defendant may have kept and used a gun for a variety of purposes besides that of killing game. Keeping or using a gun is not of itself an offence within the act, *K. v. Gardiner*; it must be kept or used with an intent to kill game; and though the witness has undertaken to swear to the defendant's intention, that is not sufficient, if the reason on which his oath is founded do not warrant such a conclusion; now the only reason assigned by the witness is, that the defendant fired a gun, and "walked about a piece of ground with that apparent intent;" to kill game cannot be collected from the mere circumstance of a person carrying a gun. — *L. Kenyon* Ch. J. (stopping *Bower*, contra.) The first objection is answered by the stat. 27 G. 3. c. 29. which was passed to prevent difficulties of this kind, and to enable inhabitants and parishioners to give evidence in prosecutions where the penalty is given to the parish, provided it do not exceed 20 l. With regard to the other objection, here was evidence tending to prove the offence. That being the case, we have no authority to examine further,

further, and see whether the conclusion drawn by the magistrate be or be not the inevitable conclusion from the evidence. It is sufficient in convictions, if there were such evidence before the magistrate as in an action would be sufficient to be left to a jury: here we cannot say that there was no evidence of the fact, for the consideration of the magistrate. In *K. v. Gardiner*, the defendant was only charged "with having and keeping a gun, being an engine for destroying game."—*Grose J.* of the same opinion. Conviction affirmed. *Durnf. and East*, 6 V. 177.

Conviction for keeping a greyhound, on 5 *Ann.*
c. 14.

County of } *BE* it remembered, that on the — day of —
— in the — year of the reign of our
sovereign lord George the third, by the grace of God king of
Great Britain, &c. and in the year of our Lord —, at
the parish of — in the said county of —, A. I. of
the parish of — in the said county of —, yeoman, who
prosecutes as well for the poor of the parish of — in the
said county of — as for himself in this behalf, in his
proper person, cometh before me, J. P. esquire, one of the jus-
tices of our said lord the king, assigned to keep the peace of our
said lord the king in and for the said county of —, and
also to hear and determine divers felonies, trespasses, and other
misdemeanors in the said county committed, and, as well for
the poor of the said parish of — in the said county of
— as for himself, then and there giveth me the said jus-
tice to understand and be informed, That, within three months
now last past, that is to say, on the — day of — in
in the — year aforesaid, at the said parish of —
in the said county of —, A. O. of the parish of —
in the said county of —, yeoman, being a person not then
having lands or tenements or any other estate of inheritance in
his own right, or in his wife's right, of the clear yearly value
of 100 l. per annum, or for term of life, nor then having lease
or leases of 99 years, or for any longer term, of the clear
yearly value of 150 l. nor then being the son and heir apparent
of an esquire or other person of higher degree, nor then being
the owner or keeper of any forest, park, chase, or warren,
being stocked with deer or conies for his necessary use in respect
of such forest, park, chase, or warren, nor then being lord of any
manor, lordship, or royalty, nor then being gamekeeper of any
lord or lady of any lordship, manor, or royalty, duly made,
constituted or appointed by writing under his or her hand and
seal,

Put the year of
the reign, as,
e. g. 36th.

*seal, to take, kill, or destroy the game, or any sort of game whatsoever, in or upon any lordship, manor, or royalty, nor then being truly or properly a servant of or to any lord or lady of any lordship, manor, or royalty, nor then being immediately employed or appointed to take, kill, or destroy the game, or any kind of game whatsoever, for the sole-use or immediate benefit of any lord or lady of any lordship, manor, or royalty, nor then being a person in any manner whatsoever qualified or authorized to kill game, or to keep any greyhound for the destruction of the game of this kingdom, did keep a certain greyhound for the destruction of the game of this kingdom, contrary to the form of the statute in such case made and provided, whereby and by force of the said statute the said A. O. hath forfeited for his said offence, the sum of 5*l.* one half thereof to the said A. I. the informer, and the other half thereof to the poor of the said parish of ———, where the said offence was committed: And thereupon the said A. I. the informer humbly prays the judgment of me the said justice in the premises, according to the form of the said statute, and that the said A. O. may be summoned to answer the premises and make his defence thereto, before me the said justice: Whereupon, the said A. O. having been duly summoned in this behalf, to answer and make his defence to the said information and the offence therein charged upon him before me the said justice, afterwards, that is to say, on the ——— day of ——— in the ——— year aforesaid, at the said parish of ——— in the said county of ———, appeareth and is present before me the said justice, in order to answer and make good his defence to the said information, and the offence therein charged upon him as aforesaid: and he the said A. O. having heard the same, is asked by me the said justice, if he can say any thing for himself why he the said A. O. should not be convicted of the premises above charged on him, in form aforesaid, who pleadeth, that he is not guilty of the said offence: Nevertheless, on the said ——— day of ——— in the ——— year aforesaid, at the said parish of ——— in the said county of ———, one credible witness, to wit, A. W. of the parish of ——— in the said county of ———, yeoman, cometh before me the said justice, in his proper person, and before me the said justice the said A. W. being then and there, to wit, on the same day and year last aforesaid, at the said parish of ——— in the said county of ———, duly sworn touching the premises, upon the holy gospel of God, upon his corporal oath to him then and there administered by me the said justice, (I the said justice having then and there full power and authority to administer the said oath to the said A. W.) deposeth, sweareth, and upon his oath aforesaid affirmeth and saith, in the presence and hearing of the said A. O. that within*

three months next before the said information was made before me the said justice, by the said A. I. as aforesaid, that is to say, on the said — day of — in the — year aforesaid, at the said parish of — in the said county of —, the said A. O. being a person not then having lands or tenements, or any other estate of inheritance in his own right, or in his wife's right, of the clear yearly value of 100l. per annum, or for term of life, nor then having lease or leases for ninety-nine years, or for any longer term, of the clear yearly value of 150l. nor then being the son and heir apparent of an esquire or other person of higher degree, nor then being the owner or keeper of any forest, park, chase, or warren, being stocked with deer or conies for his necessary use in respect of such forest, park, chase, or warren, nor then being lord of any manor, lordship, or royalty, nor then being gamekeeper of any lord or lady of any lordship, manor, or royalty, duly made, constituted or appointed by writing under his or her hand and seal, to take, kill, or destroy the game, or any kind of game whatsoever, in or upon any lordship, manor, or royalty, nor then being truly or properly a servant of or to any lord or lady of any lordship, manor or royalty, nor then being immediately employed or appointed to take, kill, or destroy the game, or any kind of game whatsoever, for the sole use or immediate benefit of any lord or lady of any lordship, manor, or royalty, nor then being a person in any manner whatsoever qualified or authorized to kill game, or to keep a greyhound for the destruction of the game of this kingdom, did keep a certain greyhound for the destruction of the game of this kingdom, contrary to the form of the statute in such case made and provided: Whereupon, all and singular the matters and things in the said information and evidence contained, being by the said A. O. then heard and fully understood, the said A. O. is asked by me the said justice what he hath to say or offer in his defence against the said information and offence, and in answer to the evidence given as above mentioned, and what he hath to say why he should not be convicted of the premises so charged upon him: And for as much as the said A. O. doth not say or offer anything in his defence against the said information and offence, or produce or offer any evidence in answer thereto, and to the evidence given as above mentioned, it manifestly appears to me the said justice, that the said A. O. is guilty of the premises above charged upon him in and by the said information: Wherefore I the said justice, upon the oath of one credible witness so taken before me as aforesaid, do adjudge that the said A. O. within three months next before the said information was made before me the said justice, by the said A. I. as aforesaid, that is to say, on the said — day of — in the

the

the — year aforesaid, at the said parish of — in the said county of —, being a person not then having any lands or tenements or any other estate of inheritance in his own right, or in his wife's right, of the clear yearly value of 100l. per annum, or for a term of life, nor then having lease or leases for 99 years, or for any longer term, of the clear yearly value of 150l. nor then being the son and heir apparent of an esquire or other person of higher degree, nor then being the owner or keeper of any forest, park, chase, or warren, being stocked with deer or conies for his necessary use in respect of such forest, park, chase, or warren, nor then being lord of any manor, lordship, or royalty, nor then being gamekeeper of any lord or lady of any manor, lordship, or royalty, duly made, constituted, or appointed by writing under his or her hand and seal, to take, kill, or destroy the game, or any kind of game whatsoever, in or upon any manor, lordship, or royalty, nor then being truly or properly a servant of or to any lord or lady of any manor, lordship, or royalty, nor then being immediately employed or appointed to take, kill, or destroy the game, or any kind of game whatsoever, for the sole use or immediate benefit of any lord or lady of any manor, lordship, or royalty, nor then being a person in any manner whatsoever qualified or authorized to kill game, or to keep a greyhound, for the destruction of the game of this kingdom, did keep a certain greyhound for the destruction of the game of this kingdom, contrary to the form of the statute in such case made and provided; and therefore I the said justice, on the said — day of — in the — year aforesaid, at the said parish of — in the said county of —, do convict the said A. O. of the offence aforesaid in and by the said information charged upon him, and the said A. O. is hereby convicted thereof by me the said justice, on the oath of one credible witness, according to the form of the statute in such case made and provided: and I the said justice do adjudge, that the said A. O. for his offence aforesaid, hath forfeited the sum of 5l. of lawful money of G. B. to be distributed as the statute aforesaid doth direct. In witness whereof I the said justice to this present record of conviction have set my hand and seal, at the parish of — aforesaid in the said county of —, the — day of — in the — year aforesaid, and in the year of our Lord —.

Conviction of an innkeeper, for having two partridges in his custody and selling the same; on the 5 *Ann. c. 14.* and 28 *G. 2. c. 12.*

Lancashire. *BE* it remembered, that on the 30th day of October in the 23d year of the reign of our sovereign lord George the third, by the grace of God king of Great-Britain, &c. at W. in the county of Lancaster, D. P. of L. in the county of Chester esquire, in his proper person, cometh before me E. O. clerk, one of the justices of our said lord the king, assigned to keep the peace of our said lord the king in and for the said county of L. and also to hear and determine divers felonies, trespasses, and other misdemeanors committed within the same county, and then and there giveth me the said justice to understand and be informed, That, within three months now last past, that is to say, on the 2d day of October, in the 22d year of the reign of our said lord the present king, at the parish of M. in the said county of L. R. A. of the parish of M. aforesaid innkeeper, being a person not then having lands or tenements or any other estate of inheritance in his own right, or in his wife's right, of the clear yearly value of 100 l. per annum, or for term of life, nor then having lease or leases of 99 years, or for any longer term, of the clear yearly value of 150 l. nor then being the son and heir apparent of an esquire or other person of higher degree, nor then being the owner or keeper of any forest, park, chase, or warren, being stocked with deer or conies for his necessary use in respect of such forest, park, chase, or warren, nor then being lord of any manor, lordship, or royalty, nor then being gamekeeper of any lord or lady of any lordship, manor, or royalty, duly made, constituted or appointed by writing under his or her hand and seal, to take, kill or destroy the game, or any sort of game whatsoever, in or upon any lordship, manor, or royalty, nor then being truly or properly a servant of or to any lord or lady of any lordship, manor, or royalty, nor then being immediately employed or appointed to take, kill, or destroy the game, or any kind of game whatsoever, for the sole use or immediate benefit of any lord or lady of any lordship, manor, or royalty, nor then being a person in any manner whatsoever qualified or authorized to kill game, and being then and there an innkeeper, unlawfully had in his custody two partridges, and did then and there sell (or, offer to sell) (a) the same partridges, contrary to the form of the statute in that case made and provided: and the said D. P. the said informer, prayeth that the said R. A. may be convicted of the said offence above laid to his charge. Whereupon the said R. A. having been

(a) This should be stated according to the evidence. If the offender only had the birds in his custody, the information should be confined to that part; if he actually sold, omit the offer to sell; if he offered to sell, omit the allegation that he actually sold.

been duly summoned in this behalf to answer and make his defence to the said information, and the offence therein charged upon him before me the said justice, afterwards, that is to say, on the 13th day of November in the 23d year aforesaid, at W. aforesaid in the said county of L., appeareth and is present before me the said justice, in order to answer and make good his defence to the said information and offence charged on him as aforesaid: and he the said R. A. having heard the same, is asked by me the said justice if he can say any thing for himself, why he the said R. A. should not be convicted of the premises above charged on him in form aforesaid, who pleadeth, that he is not guilty of the said offence: Nevertheless, on the 13th day of November in the 23d year aforesaid, at W. aforesaid, in the said county of L. one credible witness, to wit, J. B. of H. in the said county of L. yeoman, cometh before me the said justice, in his own proper person, and before me the said justice the said J. B. being then and there, to wit, on the day and year last aforesaid, at W. aforesaid, duly sworn touching the premises upon the holy gospel of God, upon his corporal oath to him then and there administered by me the said justice, (I the said justice having then and there full power and authority to administer the said oath to the said J. B.) deposeth, sweareth, and upon his oath aforesaid affirmeth and saith, in the presence and hearing of the said R. A. that within three months next before the said information was made before me the said justice by the said D. P. as aforesaid, to wit, on the said 2d day of October in the 22d year aforesaid, at the parish of M. aforesaid, he the said R. A. being a person not then having lands, tenements, or any other estate of inheritance in his own right, or in his wife's right, of the clear yearly value of 100 l. per annum, or for term of life, nor then having lease or leases of 99 years, or for any longer term, of the clear yearly value of 150 l. nor then being the son and heir apparent of an esquire or other person of higher degree, nor then being the owner or keeper of any forest, park, chase, or warren, being stocked with deer or conies for his necessary use in respect of such forest, park, chase, or warren, nor then being lord of any manor, lordship, or royalty, nor then being gamekeeper of any lord or lady of any lordship, manor, or royalty, duly made, constituted, or appointed by writing under his or her hand and seal, to take, kill or destroy the game, or any sort of game whatsoever, in or upon any lordship, manor, or royalty, nor then being truly or properly a servant of or to any lord or lady of any lordship, manor, or royalty, nor then being immediately employed or appointed to take, kill, or destroy the game, or any kind of game whatsoever, for the sole use or immediate benefit of any lord or lady of any lordship, manor,

manor, or royalty, nor then being a person in any manner whatsoever qualified or authorized to kill game, and then and there being an innkeeper, unlawfully had in his custody two partridges, and did then and there sell (or offer to sell) the same, contrary to the form of the statute in that case made and provided: Whereupon all and singular the matters and things in the said information and evidence contained being by the said R. A. then heard and fully understood, the said R. A. is by me the said justice asked what he hath to say or offer in his defence against the said information and offence, and in answer to the evidence given as above mentioned, and what he hath to say why he should not be convicted of the premises so charged upon him: And forasmuch as upon hearing and fully understanding all and every the matters and things by the said R. A. alleged and proved in his defence touching the premises in the said information specified, it manifestly appears to me the said justice, that the said R. A. is guilty of the premises above charged upon him in the said information; it is therefore adjudged by me the said justice, upon the testimony of the said J. B. a credible witness, upon his oath before me the said justice so taken as aforesaid, that the said R. A. on the said 2d day of October in the 22d year aforesaid, at the parish of M. aforesaid, within three months next before the said information was made before me the said justice by the said D. P. as aforesaid, unlawfully had in his custody two partridges, and did then and there sell (or offer to sell) the same, contrary to the form of the statute in that case made and provided: and that the said R. A. had not then any lands or tenements, or any other estate of inheritance in his own right, or in his wife's right, of the clear yearly value of 100 l. per annum, or for term of life, nor then had lease or leases for 99 years, or for any longer term, of the clear yearly value of 150 l. nor then was the son and heir apparent of an esquire or other person of higher degree, nor then was the owner or keeper of any forest, park, chase, or warren, being stocked with deer or conies for his necessary use, in respect of such forest, park, chase, or warren, nor then was lord of any manor, lordship, or royalty, nor then was gamekeeper of any lord or lady of any lordship, manor, or royalty, duly made, constituted or appointed, by writing under his or her hand and seal, to take, kill, or destroy the game, or any sort of game whatsoever, in or upon any lordship, manor, or royalty, nor then was truly or properly a servant of or to any lord or lady of any lordship, manor or royalty, nor then was immediately employed or appointed to take, kill or destroy the game, or any kind of game whatsoever, for the sole use or immediate benefit of any lord or lady of any lordship, manor, or royalty, nor then was

was a person in any manner whatsoever qualified or authorized to kill game, and was then and there an innkeeper : And thereupon, I the said justice, on the said 13th day of November in the 23d year aforesaid, at W. aforesaid, in the said county of L. do convict the said R. A. of the offence aforesaid, in and by the said information charged against him, and he the said R. A. is hereby convicted thereof by me the said justice, upon the oath of one credible witness, according to the form of the statute in that case made and provided : and I the said justice do adjudge that the said R. A. for his offence aforesaid, hath forfeited the sum of 10 l. of lawful money of Great Britain, that is to say, the sum of 5 l. for each of the said partridges : and I do adjudge, that one half of the said sum of 10 l. be paid to the said informer D. P. and the other half of the said sum of 10 l. be paid to the poor of the parish of M. aforesaid, where the said offence was committed, according to the form of the statute in that case made and provided. In witness whereof I the said E. O. the justice aforesaid, have to this present record of conviction set my hand and seal, at W. aforesaid, in the said county of L. the said 13th day of November in the 23d year aforesaid, and in the year of our Lord 1782.

The above conviction was drawn by a gentleman of great eminence at the bar as a special pleader, who subjoined the following observations : That though the statute, 5 Ann. c. 14. makes no distinction between those innkeepers who are qualified by estate, and those who are not, he thought it safer to allege want of qualification, unless the defendant actually sold the birds, or offered them to sale ; in which case, as the statute 28 Geo. 2. c. 12. inflicts the penalty, whether the person is qualified or not, it would be proper to omit the whole of what is stated in the conviction respecting qualifications ; and that he thought it would not be proper to consider the using the birds in the defendant's house, as an innkeeper, in providing for his guests, to be an actual sale.

Gaming. (Lottery.)

Doors may be broken open to seize such persons,

BY 34 G. 3. c. 40. On complaint upon oath before one justice, of any offence committed against the act of 27 G. 3. c. 1. for suppressing unlawful lotteries, in any house

house or place within the jurisdiction of such justice, whereby any offenders may be liable to be punished as rogues and vagabonds, such justice, by warrant, may empower any person employed by the commissioners of the stamp duties in the execution of the acts for the regulating of lotteries, by day or by night, (but if in the night in the presence of a constable, who is required to be aiding and assisting therein,) to break open the doors of any part of such house or place where such offence shall have been committed, and to enter and seize all such offenders or other persons, who shall have knowingly assisted or been any ways concerned in committing such offence, and convey them before any justice of the county, city, or place wherein such person shall be so apprehended, to be dealt with according to law; and all persons who shall have been discovered in such house or place, knowingly aiding, assisting, or any ways concerned with such offenders in carrying on any such transactions, shall be deemed rogues and vagabonds, and punished accordingly: and the officer having the execution of such warrant, or person acting in his aid or assistance, may arrest any such persons so discovered in such house or place, and convey them before a justice as aforesaid. And if any person shall forcibly obstruct or hinder any such officer, or others acting in his aid or assistance, in the execution of their duty herein, he shall be deemed an offender against law, and the court before whom he shall be tried and convicted may order him to be fined, imprisoned, and publickly whipped, as in their discretion shall be thought fit. And all persons, although not discovered in such house or place as aforesaid, who shall employ any person in carrying on any of the transactions aforesaid, or be aiding or assisting therein, shall be deemed rogues and vagabonds, and punished accordingly. *f. 37.*

And if any person shall be brought before any two justices, and shall be convicted of any offence against the said act of 27 G. 3. c. 1. or of this act, whereby he shall be adjudged a rogue and vagabond, such justices may order him to be sent to the house of correction for any time not exceeding six, nor less than one calendar month, and until the final period of the drawing of the lottery in respect whereof such offence shall be committed; and such proceedings shall not be subject to appeal, nor removeable by *certiorari*. *f. 40.*

Offenders adjudged rogues and vagabonds may be committed.

Gloves.

BY 34 G. 3. c. 10. the duties on gloves and mittens imposed by 25 G. 3. c. 55. are repealed; except such powers and regulations in that act, as relate to the duties on licences to be taken out by dealers in gloves and mittens by retail. *s. 1.*

Hair powder.

[N. B. The manner of making hair powder, and the excise duty thereon: See title *Excise*, (Starch), &c.]

Duty.

BY 35 G. 3. c. 49. After 5th of *May* 1795, every person who shall use or wear any powder commonly called *hair powder*, of whatever materials the same shall be made, shall previously enter his or her name and place of abode, and annually take out a certificate thereof, upon which shall be charged a stamp duty of 1 l. 1 s. *s. 1.*

What shall be deemed hair powder.

And every sort or composition of powder which shall be used or worn by any person as an article of dress, by whatever name the same shall be distinguished, shall be deemed hair powder within the meaning of this act. *s. 2.*

Exemptions.

But nothing herein shall extend to the *royal family* or their immediate servants; nor to any *clergyman* who shall not be possessed of an annual income of 100 l. or upwards, whether arising from ecclesiastical preferment or otherwise; nor to any *dissenting preacher* in holy orders, or pretended holy orders, intitled to the benefit of 1 *W. & M.* c. 18. 19 G. 3. c. 44. or to 31 G. 3. c. 32. respecting papists, who shall not be possessed of an annual income of 100 l. a year or upwards, however arising; nor to any *subaltern* or *non-commissioned officer* or *private man*, belonging to the *army*, *artillery*, *militia*, *marines*, *engineers*, or *señcibles*; nor any *officer of the navy* under the rank of commander; nor any *officer* or *private man* in any corps of *yeomanry* or *volunteers* raised by virtue of 34 G. 3. c. 31. *s. 3, 4, 5, 7.*

Provided, that where any such person shall be a beneficed clergyman, the income arising from his benefice shall be estimated on the average amount thereof as nearly as may be for seven years next preceding. *f. 30.*

Benefices of
clergymen how
to be estimated.

Provided also, that any person who shall have *more than two daughters unmarried*, shall be at liberty, on paying the duty for *two*, to have a certificate for the whole number of whom he shall give an account. *f. 6.*

Persons having
more than two
daughters un-
married.

This duty to be under the management of the commissioners for stamps, who are to appoint under officers. *f. 8, 9.*

To be under the
stamp officers.

And every person liable to the duty, shall make entry with the distributor of stamps, or his deputy, or person appointed to receive the same, and give an account in writing, which shall contain his name and place of abode, and whether he is a housekeeper, or one of the family, or a lodger, inmate, apprentice, or servant abiding in the house of any person; with the day, month, and year of delivering the same; and such distributor, or deputy, or person so appointed, shall, upon payment of the duty, issue a certificate in the form and manner specified in the act (*a*). *f. 10.*

Persons liable
are to make en-
try, and have a
certificate.

And every certificate shall determine on 5th *April* in the year for which the same shall be issued, and if taken out after 5th *May* 1795, or within one calendar month afterwards for the year 1795, [which by 35 G. 3. c. 112. is further extended to 20th *July* 1795,] or in any subsequent year, for the year in which the same shall be issued, shall be in force until and upon the 5th *April* then next following, and shall commence from the date thereof; and every certificate taken out for any year subsequent to the year in which the same shall be issued, shall commence from 5th *April* then next ensuing, and continue in force until and upon 5th *April* in the succeeding year. *f. 11.*

How long certi-
ficates shall con-
tinue.

And the names of all or any number of persons residing in the same house may be included in one account, or may be separate at the option of such persons, but a several certificate shall in every case be issued in respect to each person. *f. 12.*

All persons in
the same house
may be put in
one account.

Provided always, that when any master shall declare his intention to pay the duty for any servant, and shall deliver in manner aforesaid an account of the capacity in which he

Masters paying
for servants to
have a certifi-
cate, which shall

(*a*) There is a form in the act, which it is thought unnecessary to insert here.

extend to their
successors in the
same capacity.

Books to be
prepared and
certificates deli-
vered without
fee.

Distributors to
return books of
certificates to
the commission-
ers, who shall
transmit lists of
persons therein
to the clerks of
peace, &c.

Lists and copies
to be admitted
as evidence.

Copies may be
required by jus-
tices.

Clerks of the
peace, &c. to
transmit copies
of lists to parish
officers, to be by
them affixed on
the church
doors, &c.

is kept, he may take out a certificate in respect of such servant upon payment of the duty, which shall set forth in words at length, the particular capacity in which such servant shall be hired, and shall serve; and such certificate shall be deemed to extend to the servant named therein during his continuance in the same service, and also to every servant who shall, during the continuance of such certificate, come in his room to serve in the same capacity, without taking out any other certificate. *§. 13.*

And the commissioners shall prepare books containing certificates, and the distributors, on payment of the duty, shall fill up and deliver out certificates to every person requiring the same, in manner aforesaid, without fee. *§. 14.*

And the distributors and officers aforesaid shall return the said books wherefrom the certificates were cut to the commissioners, who shall transmit alphabetical lists annually before the first of *November*, of the persons who have obtained certificates, to the clerk of the peace, town clerk, sheriff depute, or steward clerk, or their respective deputies, of every county or place; which lists shall be open to inspection at all seasonable hours at the head office of stamps, or at the respective offices of such clerks of the peace or other persons aforesaid, on payment of six-pence and no more; and the said commissioners, clerks of the peace, and other officers respectively, are required, upon demand, to deliver copies of such lists or parts of lists in their possession to any person whatsoever, to be certified and signed by them respectively, for which three-pence only shall be charged, unless such copies so demanded shall contain the entries of two or more persons, in which case there shall be paid six-pence for every two persons whose names are certified therein; which lists and parts thereof, and copy signed as aforesaid, shall at all times and places be allowed as legal evidence of a certificate having been obtained by the person whose name shall be certified therein: and such copy may be required by any justice before whom any prosecution shall be depending to be delivered *gratis*, on notice in writing being left at the office of the said commissioners, clerks of the peace, or officers aforesaid, or their deputies, to whom respectively the same shall appertain. *§. 15.*

And the respective clerks of the peace and officers aforesaid, or their deputies, shall, within six weeks after the receipt of the copy of such list, make out correct lists of every person named therein for each city or town, parish and place, within such county, and shall, within the said period or seven days after, transmit the same to the churchwarden

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or overseers of the poor, constables, or other peace officers of such place, or one of them; who shall, within three days after the receipt of such lists, cause an exact copy thereof to be affixed on the church or chapel doors and market-cross (if any) of such city, town, parish, or place, and if such place shall not have a church or chapel, then on the church or chapel door of the next adjoining parish, and shall cause the same to be from time to time replaced for four weeks then next ensuing if necessary, with other copies in like manner. And every person who shall wilfully tear, deface, or remove any such copy so affixed within the said four weeks, shall forfeit for every offence 40s. on conviction before a justice, half to such parish officers, and half to the informers. *f. 16.*

Penalty on defacing such copies.

And if any person shall use or wear as an article of dress, any such hair powder without having obtained such certificate as aforesaid, he shall, for every such offence, forfeit 20l. to be sued for and recovered in the county or place where such offender shall be. And if any person having obtained any such certificate, shall afterwards sell, transfer, assign, or deliver the same, to any other person, with intent that the same shall be fraudulently made use of; or shall fraudulently use any such certificate in order to evade the duty, he shall, for every such offence, forfeit 30l. *f. 17.*

Penalty for wearing powder without, or transferring or fraudulently using certificates.

Provided, that no person who shall come into this kingdom from foreign parts, shall be required to obtain a certificate until after 21 days next after his arrival; and the proof of the time of such arrival shall lie upon such person. *f. 18.*

Foreigners.

And such clerks of the peace and other officers aforesaid, may be rewarded for their trouble by the commissioners of the stamp duties, as they shall think fit, over and above their expences; and such reasonable rewards shall be given to such constable, or other parish and peace officers as such commissioners shall authorize, to be paid by such clerks of the peace or officers aforesaid employing them, to be charged in their accounts with the said commissioners. *f. 19.*

Rewards to clerks of the peace, constables, &c.

And if any officer appointed in pursuance of this act, shall neglect to perform his duty, or shall commit or suffer any undue or fraudulent practices in the execution of such office, he shall, on conviction, forfeit 50l. for every such offence. *f. 20.*

Penalty for neglect of duty.

And every surveyor of houses and windows shall, within 14 days of 5th April yearly, give or leave notice to or for every occupier of any dwelling house, where any per-

Window surveyors to give notice to occupiers of houses to produce lists of re-

Persons therein
who have worn
powder.

son liable to this duty shall reside within his limit, at his dwelling house, and where such house shall be divided into different stories or apartments, and occupied distinctly by several persons, then to or for the occupier of each district, story or apartment; to prepare and produce within 14 days next ensuing the day of giving such notice, a list in writing to the best of his belief, of the name of every person resident in such house and liable to this duty, who shall, within the year ending the 5th day of *April* preceding, (and by 35 G. 3. c. 112. s. 2. the first list shall contain such persons only as have worn hair powder, between 25th *July* 1795, and 5th *April* 1796,) have used or worn hair powder, and the situation of such person in respect of the family or families in such house; in which list, all persons of the family, and all apprentices, servants, lodgers, and inmates, which to the best of his knowledge or belief are liable to the duty, whether they have certificates or not, shall be included; and every such occupier shall, after such notice, make out such list, and sign the same; and shall also at the same time, make a declaration signed by him, of the county or place where such occupier so resident shall have obtained, or doth intend to obtain his certificate, and whether for himself only or for any part of his family or servants, and deliver the same to such surveyor; on pain of forfeiting 20l. for every such offence; and shall be liable to prosecution for every such offence, and be deemed guilty thereof, whether the person so omitted, or not returned, hath or hath not a certificate, or been prosecuted for any such offence, or is or is not amenable to justice for any offence against this act; and that the conviction of any such occupier for any such neglect or omission shall not be deemed to exempt the person so omitted or not returned from paying the duty, or from prosecution or punishment for any offence against this act. s. 21.

On the penalty
of 20l.

Persons who
have usual resi-
dence elsewhere,
need not be in-
cluded.

Surveyors to
transmit lists to
the commis-
sioners of taxes,
&c.

Penalties may be
sued for.

But no person shall be required to include in such list, any person resident in his house, who hath a place of usual residence elsewhere in *Great Britain*. s. 23.

And every such surveyor shall transmit such lists so delivered to him to the commissioners for the affairs of taxes at their office in *Middlesex*, who shall transmit a copy thereof to the commissioners of the stamp duties. s. 22.

All penalties hereby imposed may be sued for in the courts at *Westminster*, and (if within three calendar months) shall be applied half to the king, and half with full costs to him who shall inform or sue (except where other provisions

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vifions are exprefsly made). If after three months, the whole fhall go to the king. *f.* 25, 26.

But where the penalty fhall not exceed 20*l.* the fame may be recovered before any neighbouring juftice, who on complaint (A.) within three calendar months after the offence committed, may fummon (B.) the party accused, giving to each party three days notice to appear, and alfo the witneffes on either fide, and upon proof, by confeffion, or by the oath of one witnefs, or otherwife as the cafe may require, may give judgment (C.) for the penalty; to be divided, half to the poor where the offence is committed, and half to the informer; and may be levied (D.) on the goods of the offender, which may be fold if not redeemed within fix days; and in default of fufficient diftreff, the offender may be committed (E.) to prifon for not exceeding fix nor lefs than three calendar months, unlefs fuch penalty be fooner paid. *f.* 27.

Penalties not exceeding 20*l.* may be recovered before a juftice.

If either party think himfelf aggrieved, he may, upon giving fecurity to the amount of the penalty, together with fuch cofts as may be awarded in cafe fuch judgment be affirmed, appeal to the next feflions which fhall happen after 14 days next after fuch conviction, giving reasonable notice, who may fummon witneffes, and finally hear and determine the fame; and in cafe fuch judgment be affirmed, they may award the perfon fo appealing to pay fuch cofts as to them fhall feem meet. *id.*

Appeal.

Provided, that where any perfon accused of wearing hair powder without a certificate, fhall infift in his excufe before fuch juftice that he has obtained a certificate in any other county or place, and fhall on his oath, fet forth the county or place, and time of obtaining the fame; fuch juftice, at his request, may adjourn the hearing and determination until a future time, in order that he may produce his certificate or entry, or copy thereof under the hand of the proper officer as herein directed; and if at the end of fuch time, fuch perfon fhall not produce the fame, fuch juftice fhall proceed to the hearing and determination of fuch complaint in manner before directed. *id.*

The hearing may be adjourned where it is alledged that a certificate hath been taken out in another place.

Provided nevertheless, that fuch juftice where he fhall fee caufe, may mitigate any fuch penalties as he fhall think fit (reasonable cofts and charges of the officers and informers as well in making the difcovery as in profecuting the fame, being always allowed over and above fuch mitigation) fo as fuch mitigation do not exceed one moiety of the penalty over and above the cofts. *id.*

Penalties may be mitigated.

Witneffes neglecting to appear, being duly fummoned,

Witneffes neglecting to appear.

Hair powder.

without a reasonable cause to be allowed by such justice, or refusing to be examined on oath, shall forfeit 40 s. to be levied in manner aforesaid. *f.* 38.

Conviction.

And the conviction may be made out in the form (G.), or to the like effect; and shall be wrote on parchment and returned to the next sessions, there to be filed and kept: and shall not be removed by *certiorari* or other process into any court whatsoever. *f.* 39.

Proof to lie on the person claiming the exemption.

And upon all prosecutions for non-payment of this duty, the proof shall lie upon the person claiming the exemption, who shall be permitted to allege the same upon his oath or affirmation, or other sufficient evidence. *f.* 30.

Counterfeiting or forging stamps.

Persons counterfeiting or forging stamps, shall be guilty of felony without benefit of clergy. *f.* 31.

A. Information.

Westmorland. **T**HE information of A. I. of — in the county of — yeoman, exhibited to and before me J. P. esquire, one of his majesty's justices of the peace for the said county of —, residing near the place where the offence was committed, the — day of — in the year —, at — in the said county of —, who saith, that A. O. of — in the said county of — gentleman, on the — day of — now last past, at — in the said county of —, did, contrary to the form of the statute in that case made and provided, use and wear as an article of his dress, a certain powder commonly called hair powder, without then having obtained the certificate required by law for that purpose [or as the case may be]; whereby, and by force of the said statute, the said A. O. hath forfeited the sum of 20 l. of lawful money of Great Britain, for the offence aforesaid [or as the penalty may be]. And thereupon the said A. I. prayeth the judgment of me the justice aforesaid in the premises, according to the form of the statute in that case made and provided. A. I.

B. Summons.

Westmorland. { To the constable of — in the said county.

WHEREAS an information hath been exhibited to and before me J. P. esquire, one of his majesty's justices of the peace in and for the said county of —, that A. O. of — in the said county of — gentleman, on the —

— day of — now last past, at — in the said county of —, did, contrary to the form of the statute in that case made and provided, use and wear as an article of his dress, a certain powder commonly called hair powder, without then having obtained the certificate required by law for that purpose [or as the case may be]; whereby, and by force of the said statute, the said A. O. hath forfeited the sum of 20 l. of lawful money of Great Britain for the offence aforesaid [or as the penalty may be]: These are therefore to require you forthwith to summon the said A. O. to appear before me at — in the said county of —, the — day of —, [giving the parties three days notice at least,] at the hour of — in the forenoon of the same day, to answer to the said information, and to be further dealt with according to law. And be you then there to certify what you shall have done in the execution hereof; herein fail you not. Given under my hand and seal, at — in the said county of —, the — day of — in the year of our Lord —.

C. Conviction. Taken from the form in the act.

BE it remembered, that on the — day of — in the year of our Lord — in the county of —, A. O. of —, was convicted before me J. P. one of his majesty's justices of the peace for —, residing near the place where the offence was committed, for that the said A. O. on the — day of — now last past, did, contrary to the form of the statute in that case made and provided [here state the offence against the act]; and I do declare and adjudge that the said A. O. hath forfeited the sum of — l. of lawful money of Great Britain for the offence aforesaid, to be distributed as the law directs. Given under my hand and seal the — day of —.

D. Warrant of distress.

Westmorland. { To the constable of — in the said county.

WHEREAS, by a certain record of conviction under my hand and seal, bearing date the — day of — now last past, A. O. of — in the said county of — gentleman, was and is duly convicted before me J. P. esquire, one of his majesty's justices of the peace in and for the said county of —, for that the said A. O. on the — day of —

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now

Hair powder.

now last past, at — in the said county of —, did, contrary to the form of the statute in that case made and provided, use and wear as an article of his dress, a certain powder commonly called hair powder, without then having obtained the certificate required by law for that purpose, [or as the case may be], and I did thereby declare and adjudge, that the said A. O. hath forfeited the sum of 20l. of lawful money of Great Britain for the offence aforesaid [or as the penalty may be.] These are therefore to require you to levy the said sum of 20l. by distress of the goods of the said A. O. and if within the space of six days next after such distress by you taken, the said sum of 20l. together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods so by you distrained, and out of the money arising by such sale, that you do pay one moiety of the said sum of 20l. to A. I. of — in the said county of — yeoman, who informed me of the said offence, and the other moiety thereof to the overseers of the poor of the parish of — aforesaid, where the said offence was committed, for the use of the poor of the said parish [or as the case may be]; rendering to the said A. O. the overplus, (if any,) the reasonable charges of taking, keeping, and selling the said distress being first deducted: and if sufficient distress cannot be had of the goods of the said A. O. that then you do certify the same to me, together with the return of this precept. Given under my hand and seal, at — in the said county of —, the — day of — in the year of our Lord —.

E. Commitment for want of distress.

Westmorland. { To the constable of — in the said
county, and to the keeper of —, at
— in the said county.

WHEREAS, by a certain record of conviction under my hand and seal, bearing date the — day of — now last past, A. O. of — in the said county of — gentleman, was and is duly convicted before me J. P. esquire, one of his majesty's justices of the peace in and for the said county of —, for that the said A. O. on the — day of — now last past, at — in the said county of —, did, contrary, to the form of the statute in that case made and provided, use and wear as an article of his dress a certain powder commonly called hair powder, without then having obtained the certificate required by law for that purpose, [or as the case may be,] and I did thereby declare and

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adjudge that the said A. O. hath forfeited the sum of 20 l. of lawful money of Great Britain for the offence aforesaid; and whereas, on the — day of — now last past, I did issue my warrant to the constable of — to levy the said sum of 20 l. by distress and sale of the goods of him the said A. O. and to apply the same according to law; and whereas it duly appears to me, on the oath of — the constable of — aforesaid, that he the said constable hath used his best endeavours to levy the said sum of 20 l. on the goods of the said A. O. as aforesaid, but that no sufficient distress can be had whereon to levy the same: These are therefore to command you the said constable of — aforesaid, to apprehend the said A. O. and him safely to convey to — at — in the said county, and there to deliver him to the said keeper thereof, together with this precept. And I do hereby command you the said keeper of the said — to receive into your custody in the said — the said A. O. and him there safely to keep for the space of —, unless the said sum of 20 l. shall be sooner paid and satisfied; and for so doing this shall be your sufficient warrant. Given under my hand and seal, at — in the said county of —, the — day of — in the year of our Lord —.

Hawkers and pedlars.

BY the 35 G. 3. c. 91. After 1st August 1795, the sections 16, 17, and 18, of 29 G. 3. c. 26. restraining hawkers from selling their goods in any city or market town, or within two miles from the middle thereof, except on market and fair days, are repealed. s. 2.

And the penalty of 10 l. inflicted by the said act of 29 G. 3. c. 26. s. 11. on persons trading without a licence or refusing to shew it, may be levied by distress and sale of the goods or chattels of such offender, or the goods with which he shall be found trading, rendering him the overplus (if any) after deducting the charges of such distress and sale; and in the mean time such offender may be committed to the gaol or house of correction, until such distress and sale are made as aforesaid, or until such penalty shall be otherwise paid or satisfied. 35 G. 3. c. 91. s. 1.

Highways.

BY 34 G. 3. c. 74. several clauses in 13 G. 3. c. 78. are repealed, and some of them are re-enacted in nearly the same words as those repealed, which it is unnecessary to insert here; but to take notice of such only as make some alterations, or add something new.

Poor persons
may be discharged
from rates, or
compositions.

By section 4th it is provided, that in default of paying compositions, the surveyor may complain to one justice, who may summon such defaulter to appear at some special or petty sessions to be holden for such district, at which two justices at the least shall be present, to shew cause why he refuses to pay, and in default of appearance, or if on appearance he shall not make it appear to the satisfaction of such justices, that he is poor and indigent, and as such an object deserving relief; such money shall be levied by distress, in like manner as the forfeitures for neglect of statute duty. Provided that when the justices shall discharge any poor person from payment of such rate or composition money, such person shall at the same time be discharged from any expences in consequence thereof.

And whereas it may frequently happen, that persons wholly gaining their livelihood by the wages of daily labour, and occupying rateable property, by reason of age, sickness, or numerous family, or misfortune, may be in poor and indigent circumstances, and it may be expedient in certain cases to discharge such persons from all rates, assessments, or compositions whatsoever: it is enacted, that on the application of any such person to two justices at any such special or petty sessions, such justices (having first given notice to the surveyor, to appear on the part of the parish) shall examine into the situation and circumstances of such person, and if it shall appear to the satisfaction of such justices, that he is really poor and indigent and deserving of such relief, they may exempt him from all such rates, assessments, or composition. 34 G. 3. c. 74. s. 5.

Labourers to do
statute duty on
payment of the
usual wages.

And such justices may order all such persons as gain their living by daily labour, or such part of them as they may think fit, to perform six days labour upon such highways in kind, either by themselves or other sufficient labourers, in case so many days duty shall be required, upon being paid for such labour the usual wages given to labourers in such place. *id.* s. 6.

In

In the case of *K. v. Justices of the west riding of Yorkshire*, *E. 34 G. 3.* it was determined, that no appeal lies to the quarter sessions against the allowance of the accounts of the surveyor of the highways at a special sessions. *Durnf. and East*, 5 V. 629.

No appeal lies against the allowance of the surveyor's accounts.

In the case of *K. v. the inhabitants of that part of the parish of Clifton* which lies in the county of *Gloucester*, *H. 34 G. 3.* it was determined, that where a parish is situate part in one county, and the rest in another, and a highway lying in one part be out of repair; an indictment against the inhabitants of *that part only* is bad, and must be against the whole parish. *Durnf. and East*, 5 V. 498.

Parish lying in two counties.

[*N. B.* The judges gave their opinions in this case at considerable length. *L. Kenyon Ch. J.* and *Buller* and *Grose, J.* were for quashing the indictment, and *Ashburst J.* for supporting it.]

By *34 G. 3. c. 64.* After reciting, That it frequently happens that the boundaries of parishes pass through the middle of a common highway, and one side of such highway is situate in one parish, and the other side in another parish, whereby great inconveniences often arise in repairing the same: It is enacted, that two justices, on complaint (*A.*) of any surveyor of any parish, (stating in writing and by a plan thereunto annexed, that there is such a highway, one side whereof ought to be repaired by one parish, and the other side by another, and particularly describing the same by metes, bounds, and admeasurement thereof,) may issue their summons, (*B.*) with a copy of such writing and plan, to the surveyor of such other parish, to appear before them at some time not more than 14 nor less than seven days from the day of the date of such summons; and if the parties appear, such justices may then proceed finally to decide the matter in manner hereafter mentioned, in case all the parties shall consent thereto; but in case the surveyor summoned shall not appear on such first summons, or appearing, shall require further time, such justices shall adjourn the further consideration of the matter for any further time, not more than 21 nor less than 14 days from the day of such adjournment, of which the surveyor not appearing shall have notice; on which day the said justices shall proceed to hear the parties and their witnesses, and whether the party summoned appear or not, shall proceed to examine and finally determine the matter in form following; (*viz.*) They shall divide the whole of such highway by a transverse line crossing the same into

Highway lying in two parishes, two justices to determine what parts shall be repaired by each,

two equal parts, or into two such unequal parts and proportions as, in consideration of the soil, waters, floods, the inequality of such highway, or any other circumstances attending the same, they in their discretion shall think just and right; and to declare, adjudge, and order, (C.) that the whole of such highway on both sides thereof, in one of such parts, shall be repaired by one of such parishes, and that the whole thereof on both sides of the other part, shall be repaired by the other of such parishes; and shall cause such their order, and a plan of such highway, and the allotment thereof as before mentioned, to be fairly delineated on paper or parchment, and filed with the clerk of the peace; and shall also cause such posts, stones, or other boundaries to be set up, as they shall think necessary for ascertaining such division as aforesaid. *f. 1.*

Each parish afterwards bound to repair the parts so allotted.

And after such order and plan shall be so filed with the clerk of the peace as aforesaid, such parishes shall be bound as of common right to repair such parts of such highway so allotted to them as aforesaid, and shall be liable to be prosecuted and indicted for neglect of such duty, and shall in all respects whatsoever be liable and subject to all the provisions, regulations, and penalties contained in any act of parliament for repairing highways, in like manner as they are liable to repair any other highway within such parish; and also shall be discharged from the repair of such other parts of the highway as shall not be included in their respective allotments. *f. 2.*

Costs of the proceedings.

And all costs, charges, and expences incurred, shall be defrayed by such two parishes, to be ascertained by such two justices; and if not paid, either of such justices, or any other justice, may levy the same by distress, with the costs of such distress, on the goods and chattels of any surveyor of the highways of such parish. *f. 3.*

Not to alter the boundaries of counties, &c.

Provided, that nothing herein shall affect, change or alter in any manner whatsoever, any boundaries of counties, lordships, manors, or any other division of publick or private property, nor the boundaries of any parish, otherwise than for the purpose of repairing such highways as aforesaid. *f. 4.*

Not to relate to highways repaired by bodies politic, tenure, &c. without consent.

But nothing herein shall relate to highways repairable by bodies politic or corporate, townships, or other such places, or private persons by reason of tenure of lands, or otherwise howsoever, but shall be construed to relate to such highways the repair of which belongs to parishes only; unless such persons be desirous that the same shall be placed under the regulations of this act; in which case such two justices

justices may proceed therein in like manner as is herein directed with respect to parishes. *s. 5.*

Provided, that either of the two parishes, by an order in vestry specially called for that purpose, may appeal to the next quarter sessions after such order is filed as aforesaid, who may make such order as shall appear to them to be just, either by affirming, quashing, or amending the order of the two justices; and shall allow costs to either party as they shall think right: which order of sessions shall not be removed by *certiorari* or otherwise, but shall be final to all intents and purposes whatsoever. *s. 7.*

A. Information (a).

County of Westmorland. } *AT a petty sessions holden before J. P. and K. P. two of his majesty's justices of the peace for the said county, this — day of —, J. S. one of the surveyors of the highways of the parish of A. came before the justices aforesaid, and gave them to be informed, That there is in the said county, a certain common highway leading from M. to N. and that there is a certain part of the said highway, that is to say, so much thereof as lies between a certain place called C. and a certain other place called D. being in length [as the case may be,] one side of which last-mentioned part of the said highway adjoining to the parish of A. lies within the said parish of A. and is to be and of right ought to be repaired by the said parish of A. and that the other side of the same part of the said highway adjoining to the parish of B. lies within the parish of B. and is to be, and of right ought to be repaired by the said parish of B. and stating that the repair of such part of the said highway is very inconvenient to the parishes aforesaid, and the want thereof detrimental to the publick: and therefore praying, that such part of the said highway may be allotted and apportioned for the repair thereof, by the justices aforesaid, to the said several parishes of A. and B. in the manner directed by an act, passed in the 34th year of the reign of king George the third, intituled, An act, &c.*

The above application was made to us the day and year first above written.

J. S.
One of the surveyors of the highways for the parish of A.

(a) These forms are copied from those in the act.

B. SUM-

Highways.

B. SUMMONS, to be subjoined to a copy of the above information.

County of Westmorland. } To the surveyors of the highways of the parish of B. in the said county, any or either of them.

WHEREAS a certain information has been given unto us J. P. and K. P. two of his majesty's justices of the peace for the said county, by J. S. one of the surveyors of the highways of the parish of A. in the said county, a true copy whereof is above written: These are, in his majesty's name, to summon you, any or either of you, to appear before us at — in the said county, on the — day of —, at —, to shew cause (if any) why an allotment and apportionment of the highway therein mentioned, should not be made, according to the provisions of the act referred to in the said information: Herein fail not. Given under our hands the — day of —.

J. P.
K. P.

C. Final ORDER and ADJUDICATION, to be filed with the clerk of the peace.

WHEREAS, &c. [here state the original application; the summons; the appearance; and that the parties were heard, or, their non-appearance]. Now we the justices aforesaid, having fully heard and understood the premises, do declare, adjudge, and order, That the said highway shall be divided in the following manner; (that is to say) that at the distance of —, measuring from the place called C. there shall be erected certain posts or stones E. and F. on each side of the said highway; and the whole of the said highway, from the place called C. to such posts or stones, shall be from time to time, and at all times hereafter, repaired by the parish of A. and the whole of the said highway from such posts or stones to the place called D. shall from time to time, and at all times hereafter, be repaired by the parish of B. In witness whereof we have hereunto set our hands and seals, this — day of —.

J. P. (L. S.)
K. P. (L. S.)

Horses.

BY 31 G. 3. c. 5. f. 1. A duty of 10*l.* *per cent.* was imposed upon the gross amount of the former duties on horses, which was to cease when certain debts were discharged occasioned by an armament respecting *Spain*. But by 33 G. 3. c. 28. f. 24. the said duty is made perpetual.

House.

BY 31 G. 3. c. 5. f. 1. A duty of 10*l.* *per cent.* was imposed upon the gross amount of the duty on windows and lights imposed by 6 G. 3. c. 38. f. 2. and upon houses of 5*l.* a year and upwards imposed by 19 G. 3. c. 59. f. 1. which was to cease when certain debts were discharged occasioned by an armament respecting *Spain*. But by 33 G. 3. c. 28. f. 24. the said duty is made perpetual.

Iron and steel.

THE act of 26 G. 3. c. 89. was at first but temporary, but hath been continued by several subsequent acts, and by 35 G. 3. c. 38. f. 4. the same is made perpetual.

Lord's day.

BY 34 G. 3. c. 61. No *baker* in the city of *London*, or within twelve miles thereof, shall, on any pretence whatever, make, bake, or expose to sale, any bread or rolls; or bake any meat, puddings, pies, or tarts, or in any other manner exercise the trade of a baker on the Lords-day (except as herein after is mentioned); on pain of forfeiting 10*s.* upon conviction

Lord's day.

conviction (A.) before one justice, either upon view, confession, or proof on oath by one witness; which, if not paid, to be recovered by distress; and for want of sufficient distress, the offender to be committed to the house of correction for any time not exceeding fourteen nor less than seven days, unless such penalty be sooner paid: which penalty shall, within seven days after the payment thereof, be transmitted by such justice to the churchwardens or overseers of the parish where the offence was committed, for the use of the poor. *f. 1.*

Provided, that nothing herein shall extend to prohibit the selling of bread, or baking meat, puddings, or pies only, on the Lord's day, between nine in the forenoon and one in the afternoon, so as the person requiring the baking thereof, carry or send the same to and from the place where baked. *f. 2.*

All complaints to be made within six days after the offence is committed. *f. 3.*

A. Form of conviction by 34 G. 3. c. 61.

Westmorland, } *BE it remembered, that on this — day of*
to wit. } *—, A. O. is convicted before me —,*
one of his majesty's justices of the peace for the said county of
—, [or as the case may be,] due proof being made be-
fore me, on the oath of —, or upon the confession of, &c.
[as the case may be,] that — [specifying the offence,
the time when, and the place where]; and I do adjudge the
said A. O. to pay and forfeit for the same the sum of ten
shillings. Given under my hand and seal this — day
of —.

Marriage.

BY 35 G. 3. c. 67. *f. 1.* After reciting, that the punishment of persons convicted of felony by virtue of 1 J. 1. c. 11. for *restraining persons from marriage until their former wives or husbands be dead*, has not proved effectual to deter wicked persons from being guilty of the said offence: It is enacted, that if any person being married, or which hereafter shall marry, do, after the 19th May 1795, marry any person, the former husband or wife being

being alive, and shall be in due manner convicted thereof under the said act, shall be subject and liable to the same penalties, pains and punishments, as, by the laws now in force, persons are liable to who are convicted of grand or petit larceny.

Militia.

BY 35 G. 3. c. 35. (a) From the disembodiment of the militia, every subaltern officer, who now bears a commission, is serving, and shall continue faithfully to serve in the same corps, or who, previous to four months from the passing of this act (viz. 20th April 1795,) shall have a commission and continue to serve in the embodied militia, and in the same corps, until the disembodiment thereof, shall have the following annual allowances over and above his pay, without any deduction whatsoever (viz.) a lieutenant 25 l. and an ensign 20 l. per annum, in manner herein after mentioned. *f. 1.*

Subalterns to have an allowance during peace.

Provided, that no person who shall be possessed of such an estate or income as would qualify him to hold a captain's commission in the militia; or who shall be adjutant, or battalion clerk; nor any person deriving in any way whatsoever, otherwise than as a subaltern officer of the militia, any income whatever from the publick; nor any officer on the full or half pay of the navy, army, or marines, who shall also hold a subaltern's commission and serve as aforesaid in the militia, shall be entitled to the said annual allowance, or any part thereof. *f. 2.*

Exceptions

And every subaltern who shall claim the said allowance, shall, previous to receiving the same, take and subscribe annually before a justice for the county or place to which the corps in which he serves shall belong, the following oath, or to the like effect:

Oath to be taken before a justice.

I A. B. do swear, that I am now serving as a subaltern officer in the Westmorland corps of militia; and that I am not, in my own right, or in right of my wife, nor have

(a) This act is to continue in force only until 25th March, 1796. *f. 11.*

been since the disembodiment of the said corps, in the actual possession and enjoyment or the receipt of the rents and profits of lands, tenements, or hereditaments of such an annual value, above reprises, as would qualify me to hold a captain's commission in the militia; and that I am not, nor have been since the disembodiment of the said corps, an adjutant or battalion clerk in any corps of militia; that I do not hold or enjoy, nor have I held or enjoyed, nor does or has any person for me hold or enjoy, or held or enjoyed, since the disembodiment of the said corps, any office or income whatsoever from the publick; and that I am not entitled either to the full or half pay, of the navy, army or marines, nor have been since the disembodiment of the said corps, So help me God.

And to be transmitted to the receiver-general.

Which oath so taken and subscribed, such justice shall forthwith certify and transmit to the receiver general of the land tax of the county or place to which such militia shall belong, to be by him filed for the purposes hereafter mentioned. *f. 3.*

To attend the annual exercise, and certificates thereof to be transmitted.

And every subaltern who shall claim the benefits of this act, shall regularly attend the annual exercise during the whole of the 28 days, and shall perform his duty as a subaltern officer, on pain of forfeiting the said annual allowance, as well as the rest of his pay for that year; and certificates of his having so attended and performed his duty, signed by the commanding officer, shall be transmitted by him to the lieutenant, and receiver-general of the county or place to which such militia shall belong, to be by such receiver-general received previous to such subaltern receiving such allowance; and in case such subaltern shall by his commanding officer be permitted for any special cause or unavoidable necessity to be absent during the whole or any part of such annual exercise, then the reason for such absence, as well as the duration thereof, shall be specified in such certificate; and a like certificate shall also be transmitted to the secretary of state for the home department.

f. 4.

If not called out to annual exercise, to have the same allowance.

Provided, that in case such militia shall not be called out to annual exercise, every such subaltern shall be entitled to the same annual allowance as if he had attended the same, and a certificate had been transmitted as aforesaid. And upon such certificates of such justice and commanding officer as aforesaid, or (when not called out to annual exercise) upon a certificate of such justice only being produced to the receiver-general, he shall pay such annual allowance as aforesaid, to such subaltern in addition to his

his pay without any deduction as aforesaid; which shall be allowed in his accounts. *f. 5, 6.*

And all such subalterns shall at all times liable to serve in their respective corps when the militia are called out upon actual service; and if any such subaltern shall not attend when called upon, or shall a second time neglect or refuse to attend at the annual exercise, he shall forfeit his claim to the said allowance in all time to come, and shall also be considered as having resigned. *f. 7.*

Not attending when called upon, to forfeit the allowance.

And the said allowance shall be paid upon the production of such certificate as aforesaid, as soon after the annual exercise as may be, over and above the pay allowed for attending such annual exercise; but shall not be paid whilst in actual service: nor shall such allowance extend to more than 10 lieutenants in any regiment consisting of more than 10 companies; nor to more than 9 lieutenants in any regiment consisting of more than 8 and less than 11 companies; nor to more than 8 lieutenants in any regiment consisting of more than 6 and less than 9 companies; nor to more than 5 lieutenants in any corps consisting of 6 or a less number of companies. *f. 8.*

To have this allowance, and also pay for attending the annual exercise.

But to extend to a certain number only.

Provided, that if upon disembodiment the militia, there shall be a greater number of lieutenants entitled to the said allowance than is allowed by the above proviso, the senior shall be entitled to succeed first, and the junior shall succeed in rotation as vacancies may happen. *f. 9.*

Senior lieutenants to have the preference.

Provided also, that the powers given by the 26 G. 3. c. 107. *f. 15.* to discharge a certain number of officers at the end of every 5 years, shall not extend to any subaltern officer coming within the description, and entitled to the benefits of this act. *f. 10.*

Powers to discharge officers by 26 G. 3. not to extend to those entitled to the benefits of this act.

By 34 G. 3. c. 16. (a) power is given to lord lieutenants to raise volunteer companies, and accept volunteers to regiments already raised, which volunteers are to be entitled to the same allowances as the rest of the militia; and parish officers, with consent of the inhabitants at a vestry, may allow 10 l. to every such volunteer.

Lord lieutenants may raise volunteer companies, &c.

And by 34 G. 3. c. 47. it is enacted, that during the continuance of the war, it shall be lawful to beat up for volunteers in any city, town, or place, to be added to the militia; which volunteers shall take the following oath:

Volunteers may be beat up for.

(a) This act is in force only till 1st January 1795, and from thence to the end of the next session of parliament.

Oath to be
taken.

I A. B. do sincerely swear, that I will be faithful, and bear true allegiance to his majesty king George; and I do swear that I am a protestant, and that I will faithfully serve in the militia within the kingdom of Great Britain, for the defence of the same, during the continuance of the present war with France, or for any lesser time, until his majesty shall order and direct my discharge.

Substitutes,
when sworn,
having more
than one child.

Which oath shall be administered by the persons appointed to administer oaths to ballotted men, or by any justice where such volunteer shall have been enlisted. *s. 6, 7.*

H. 35 G. 3. K. v. Willis, L. Kenyon Ch. J. stated the case to be shortly this: One *Spry of Barnstable* was ballotted to serve in the militia, and procured one *Eastman of Monkleigh* to serve as his substitute; when *Eastman* appeared before the deputy lieutenants to be approved, he represented himself as a single man; it turned out in the sequel that he was married and had five children under ten years of age; he was sworn and went out into actual service; certain expences were incurred in maintaining his family, and the question is, whether that burden ought to be borne by *Monkleigh*, that had nothing to do with the principal militia man, or by *Barnstable*, for which the substitute served? It seems to me, that the construction put upon the 26 G. 3. by the prosecutor's counsel, namely, that the words commented upon are merely directory, is the true one. The deputy lieutenants ought to make every enquiry before they approve of a substitute; if he have more than one child he ought to be rejected: but if the deputy lieutenants do take him, then he becomes a legal substitute, and the parish for which the principal serves, must bear the expence of the substitute's family. The tendency of the defendant's argument is to shew, that the whole is a nullity: but the consequence of that would be that a whole regiment must be disbanded, even in the face of an enemy, if it were composed of substitutes having more than one child. Besides the words of 33 G. 3. c. 8. are general, and one of the clauses mentions the word *family*. As therefore this substitute was approved and sworn in, and actually did serve in the militia, I think that *Barnstable*, for which the principal was drawn, is liable to reimburse the other parish the expences of maintaining the substitute's family: a contrary determination would not only be against the intention of the legislature, but productive of the most dangerous consequences to the whole militia. The other judges concurred. *Durnf. and East,* 6 V. 179.

And

And by 34 G. 3. c. 47. If the commanding officer shall discharge any militia man, whether principal or substitute, at his own request, on producing another man to serve in his stead, who shall be sworn and inrolled accordingly; the wife and family of such person so sworn and inrolled shall be entitled to the same relief as the wives and families of other substitutes. *f. 2.*

Maintenance of the families of militia men exchanged.

And if any churchwarden or overseer shall, on demand made in pursuance of any order of a justice, for the payment of any money by virtue of the said act 33 G. 3. c. 8. or of this act, and after producing such order, refuse or neglect to pay the sum so ordered, he shall, for every such neglect, forfeit 5 l. to be recovered upon the oath of one witness, or confession of the party accused, before one justice, who, on complaint, may summon the offender, and on due proof made thereof as aforesaid, may give judgment for such penalty, and may levy the same by distress; to be applied, half to the party aggrieved, and half to the poor of the parish. *f. 3.*

Parish officers not paying money ordered to militia men's families.

Any person who thinks himself aggrieved, may appeal to the next sessions, who may hear and finally determine the same; and may order, where they shall see occasion, the payment of such sum as such appellant ought to have paid, in pursuance of such order. *f. 4.*

Appeal.

And the quarter sessions may order such recompence as they shall think just and reasonable, to be made to such treasurers, for their extraordinary trouble respecting the families of militia men while embodied and in actual service, to be paid out of the county stock. *f. 5.*

Recompence may be made to treasurers.

And by 35 G. 3. c. 81. In all cases where a certain number of militia men are directed to be raised for any county, together with or including any city, borough, town, or place, being a county or district of itself, and not contributing to the county rate; the money to be raised for the relief of the families of *ballotted men*, shall be paid by the treasurer of such county, or such city or place respectively, for which such man shall serve. *f. 1.*

Relief of balloted men's families, in places not contributing to the county rate.

And the money paid to the families of *serjeants (a)*, corporals, drummers, and fifiers respectively, shall be apportioned between such county, and such city or place, in such proportions, as the respective numbers of militia men ap-

And of non commissioned officers.

(a) By 34 G. 3. c. 47. *f. 1.* the families of *serjeants* are entitled to the like allowance as those of corporals, drummers, &c.

Treasurers to demand and pay as directed by 33 G. 3. c. 8.

portioned to be raised by such county, and by such city or place respectively, bear to each other. *f. 2.*

And the treasurer of such county, and of such city or place respectively, may demand, receive, and make payment of such proportions and sums of money of the treasurer of such other county, city, or place respectively, the one to the other of them as the case may require, in like manner as is directed by the 33 G. 3. c. 8. with respect to the families of ballotted men, serjeants, corporals, drummers, and fifers serving for any county other than where their families shall dwell. *f. 3.*

Disputes to be settled by the lord lieutenant or three deputy lieutenants,

And if any dispute shall arise respecting any such proportions, or other matter or thing relating thereto, or to other payments, the lord lieutenant, or in his absence three deputy lieutenants, at a meeting called under the militia laws, may adjust and settle the same, whose decision therein shall be final; and they may call for, and inspect the accounts of such treasurers respectively, for the purpose of adjusting and settling such proportions. *f. 4.*

Justices may appoint treasurers where there are none,

And in all such cities and places which do not contribute to the general county rate, and where no treasurer is yet appointed, the justices for such city or place if there are any, and if not, then the justices of the county wherein such city or place shall be, may at their general quarter sessions appoint a treasurer; and shall, from time to time, assess upon every parish, tything, township, hamlet, and vill, within the liberties of such city or place, in such proportion as the poor rates have usually been assessed; and shall cause to be paid out of the poor rates of such place to such treasurer, such sums as shall be in their discretion necessary for the purposes of this act; and such treasurer shall pay and dispose of the same accordingly, and shall act herein, in the same manner as the treasurers of peculiar districts, where a publick stock is now raised. *f. 5.*

Justices may order relief to the families of substitutes, &c.

And whereas doubts have arisen as to the extent of the power of justices to make orders for the relief of the families of substitutes, hired men or volunteers, it is enacted, that justices may order relief to such families becoming chargeable to the places where they dwell, out of the poor rates, not exceeding such sums as are directed with regard to the families of ballotted men. *f. 6.*

Sessions to allow payments made to the families of substitutes, although accounts have not been transmitted quarterly,

And whereas doubts have also arisen as to the power of the sessions to make and enforce orders on overseers to repay money to the county treasurer, where the families of substitutes dwell, unless the relief was afforded under orders previously made by a justice, and accounts of such payments

payments were transmitted quarterly; it is enacted, that the justices of any county or place to the treasurer whereof any certificates of orders and accounts of monies paid for the relief of substitutes families, shall not have been transmitted by the treasurer of any other county or place, in the manner and within the time directed by the said act, shall, at their quarter sessions, examine any such account, and allow such payments as have been actually made, whether the orders for the relief were made before or after the relief was given, and although the accounts thereof shall not have been transmitted quarterly; and may make orders on the overseers of the place for which such substitute shall serve, to pay the same to the treasurer of the county or place out of the poor rates of which such family hath been relieved, within fourteen days next after such allowance, which treasurer shall pay the amount of such account within fourteen days next after the receipt thereof. *f. 7.*

And whereas the collecting such money four times a year is attended with trouble and expence; after the passing of this act, the treasurer of that county or place who shall repay money to any such overseer where such family shall dwell, shall transmit a certificate of the order of the justice allowing such relief, (whether made before or after such relief was afforded,) and also an account of monies so repaid by him, from time to time, either yearly at the *Easter* sessions, or quarterly as required by the said act, to the justices of the county or place in the militia whereof such substitute shall serve, which account so received shall be allowed by the justices at such sessions, who shall forthwith make an order for the overseers of the place for which such substitute shall serve, to pay the same to the treasurer of such county out of the poor rates of such place, within 21 days next after such sessions, who shall remit or pay the same within 14 days after the receipt thereof, to the treasurer of the county or place transmitting such certificate and account as aforesaid. *f. 8.*

By 35 G. 3. c. 83. After reciting, that in the present conjuncture, it is expedient to augment the artillery, and to transfer to the navy, such seafaring men as are now serving in the militia, it is enacted, that the colonel or commanding officer of any corps of militia, shall discharge any number of private men trained as artillery men, if any such there be, not exceeding one out of every 50 of the whole effective establishment of such corps, who shall desire such discharge, for the purpose of inlisting themselves in the artillery. *f. 1.*

Treasurers repaying overseers, to transmit the order of the justice, and an account to the justices of the place for which substitutes serve, who shall order payment out of the poor rate.

Men trained for the artillery may be discharged on their request.

And also men who have served three years at sea.

And his majesty may direct the colonel or commanding officer of every such corps of militia, to discharge every private man who shall desire the same, for the purpose of entering into the navy, and shall have agreed to enter into such service, and who shall prove to the satisfaction of such officer, that he has *bona fide* served at least three years at sea; and every such private man, on proof on oath before a justice where such corps shall be, as well in regard to the time of his service at sea, as to other circumstances necessary to satisfy such colonel or commanding officer of the fact of such service, shall be entitled to his discharge, and if approved of by the officer appointed for this service, he shall be enrolled to serve in the navy, and shall be subject to the same terms, conditions, rules, regulations, and provisions as men raised for the navy by 35 G. 3. c. 19. and shall be liable to serve during the continuance of the present war and for three calendar months after, if the ship he shall be on board be in any port of *Great Britain*, or otherwise for three calendar months next after the arrival of such ship. *f. 2.*

Time for which such men shall serve in the navy.

Number to be discharged at one time.

Certificates to be transmitted,

Men may be raised by beat of drum, in the room of those to discharged.

Certificates to be transmitted, and more men to be discharged.

Provided, that there shall not at any one time be discharged more than one in ten of all the private men then inrolled, until other men, according to the directions of this act, shall be enrolled in their place; and when such colonel or commanding officer shall have discharged one in ten as aforesaid, he shall cause certificates of the number of men so discharged, signed by the adjutant, to be transmitted to the officers of the ordnance and admiralty respectively, which shall contain the names of the men so discharged, and of the officers of the artillery or navy respectively to whom they were delivered. *f. 3.*

And the lieutenant and deputy lieutenants respectively of the county or place to which such men so discharged do belong, and also the colonel or commanding officer, and every other commissioned officer duly authorized by such commanding officer, shall be empowered, by beat of drum, or otherwise, to raise volunteers to be enrolled as private men in the room of those discharged; and the colonel or commanding officer, when the number of men so discharged shall be replaced by new recruits, shall certify the same under his hand, to the secretary at war; and upon receiving directions from his majesty, shall discharge such further number of private men as shall desire it, not exceeding the proportions aforesaid, which shall be replaced in manner aforesaid; and so on from time to time as long as any such private men shall be desirous of their discharge, until

until the proportion herein before specified shall have been supplied for the artillery, and until all the seamen desirous of entering into the navy, shall have been discharged for that purpose in manner aforesaid; and all such men so discharged, shall be entitled to the usual allowance of bounty paid to men entering the artillery and navy. *f. 4.*

And all volunteers, who shall be inrolled in the place of those so discharged, shall be intitled to the same allowance of bounty, subsistence, arms, and cloathing as other militia men; and the colonel or commanding officer shall from time to time certify to his majesty, the number of volunteers so inrolled, until the whole number of discharged men shall be replaced; and all men so engaged to serve, shall be intitled to serve for the same period for which the persons were liable to serve whose places they supply.

f. 5.

And for every man so discharged, the colonel or commanding officer shall be entitled to receive 10 guineas, to provide other men to replace those so discharged: and the officers of artillery and navy respectively, appointed to receive such men so discharged, shall deliver to such colonel or commanding officer, a certificate under his hand and seal, of the names of every man so discharged, the corps of militia from which, and the service into which he is entered, which certificate shall be attested by such commanding officer or adjutant of militia, and be transmitted to the receiver-general of the land-tax for the county or place to which such corps belongs, which shall entitle such colonel or commanding officer to receive 10 guineas for every man specified in such certificate, to be applied for the purposes aforesaid; and every such receiver-general shall, on demand, and production and delivery of such certificate, pay the said sum out of monies in his hand, taking a receipt for the same; which shall be allowed in his accounts. *f. 6.*

And when any colonel or commanding officer of any corps of militia shall be absent from *Great Britain*, and until he return, and have notified his arrival as directed by 26 G. 3. c. 107. *f. 56.* the king, by warrant under his sign manual, may order that the officer next in command, who shall be residing in *Great Britain*, shall in all cases act, and be dealt with as the commanding officer of such corps; and all acts, matters, and things done by him, shall be as valid as if done by such colonel or commanding officer; and such officer next in command, may appoint the regimental or battalion clerk, and agent, and shall take security from such agent, and shall be liable to make good all deficiencies

Volunteers in the place of men so discharged entitled to bounty, &c.

For every man so discharged, ten guineas to be paid by the receiver-general to provide others.

When any colonel is absent from *Great Britain*, the senior resident officer shall have the like powers.

Officer assuming such powers, shall notify the absence of the colonel in seven days.

Money for payment of cloathing, &c. to be paid to the officer who ordered the articles.

Deputy lieutenants and officers may be displaced.

Serjeants and corporals may be reduced to privates.

Acceptance of commissions in the other forces, to vacate those in the militia (except colonels).

Militia officers holding commissions in the other forces to make their elections.

that may happen from the said agent or himself, on account of the pay, cloathing, or publick stock of such corps. *f. 7.*

Provided, that such officer so next in command, who shall assume such powers as aforesaid, within seven days after he shall assume such powers, shall notify such absence of such colonel or commanding officer to the lieutenant of the county; and also, when such corps shall be in actual service, to the secretary at war. *id.*

Provided also, that if any such colonel or commanding officer, shall have given any orders for any cloathing or other necessaries, or accoutrements, which ought to be provided in due course, or in pursuance of any order by proper authority, at the time when such order shall be given, and before such orders shall be completed, or after completed, and before the money shall be issued for the same; such orders shall be completed, and the money paid to the order of such colonel or commanding officer, notwithstanding his absence from this kingdom; and in like manner, any orders given by such officer next in command, when the colonel or commanding officer is out of the kingdom, shall be completed, and the money paid to the order of such officer next in command in like manner. *id.*

And his majesty may signify his pleasure, to his lieutenant of any county or place, to displace all or any deputy lieutenants and officers in the militia, and thereupon such lieutenant shall appoint others in their stead. *f. 8.*

And the clause in 26 G. 3. c. 107. *f. 89.* setting forth that any serjeant or corporal may be reduced, as therein specified, is repealed; and it is enacted, that any serjeant or corporal may, by sentence of a court martial, be reduced to a private man, to serve as such during any time not exceeding 15 months, in case the corps to which he belongs shall not be then in actual service; but if in actual service, then he shall serve as aforesaid until they are disembodied, when he shall be discharged if not re-appointed. *f. 9.*

And the acceptance by any officer of the militia (except the colonel) of any commission in his majesty's other forces, whether liable to serve out of *Great Britain*, or within the same only, shall from the date of such commission make void his commission in the militia; and all officers of the militia (except the colonel) who have commissions in any of his majesty's other forces as aforesaid, and now hold the same together with their militia commission, shall within one month after the passing of this act (*viz. 2d June 1795*) make their election, whether they will continue in the militia,

militia, or such other forces; and shall also within the same time, notify such their election in writing to the lieutenant of the county, and also to one of his majesty's secretaries of state, to be inserted in the *Gazette*; and such commission shall from thence be void. And if any such officer shall neglect or refuse to make and notify such election within the time aforesaid, his militia commission shall, within one month from the passing of this act, be void.
f. 10.

And every colonel in the militia, who shall raise any fencible corps, shall receive only the pay of such fencible corps to which he belongs, and he shall not act in any respect as colonel in the militia, until such fencible corps is reduced; and the lieutenant of the county may appoint an additional major to such militia corps, with the pay of such, during the time such colonel is suspended; and such colonel shall be tried as a fencible officer only: Provided nevertheless, that in case any commission in any corps of militia, now holden by any officer in any fencible regiment, shall not be filled up, when such fencibles are reduced; such officer, with the consent of the lieutenant of the county, may resume his commission in the militia, in like manner as if it had never been vacated. *id.*

Militia colonels raising fencible corps.

And whenever any certificate, signed by the colonel or commanding officer of any corps of militia, shall be transmitted to the deputy lieutenants of the subdivision for which any private man shall have been inrolled, of his having died, or been appointed a serjeant, corporal, or drummer, in the militia, or been discharged as unfit for service, or by sentence of a court martial; such vacancy shall be filled up by ballot, immediately after the receipt of such certificate. *f. 11.*

Men to be balloted for, in the place of those who die, or are discharged, or promoted.

Month.

WHERE the word *month* is used in any statute, without the addition of *calendar*, or other words to shew that the legislature intended calendar month, it is understood to mean a lunar month. *Lacon and another v. Hooper and another, E. 35 G. 3. Durnf. and East, 6 V. 224.*

News:

News-papers.

BY 34 G. 3. c. 72. single demy paper in sheets may be stamped, instead of stamping every half sheet of double demy paper, on payment of 2 d *per* sheet duty. *s. 1.*

Parliament.

When acts of parliament shall take date.

BY 33 G. 3. c. 13. After reciting, that in every act of parliament in which the commencement thereof is not directed to be from a specified time, it doth commence from the first day of the session of parliament in which such act is passed, which is liable to great injustice; to remedy which, it is enacted, that the clerk of the parliaments shall indorse (in *English*) on every act of parliament which shall pass after 8th *April*, 1793, immediately after the title thereof, the day, month, and year when the same passed and received the royal assent; which indorsement shall be taken to be the date of its commencement, where no other commencement shall be therein provided. *s. 1.*

Notice of elections when to be given.

And by 33 G. 3. c. 64. When any notice is to be given of the time and place of any election, the same shall be publickly given at the usual place or places, within the hours of eight in the forenoon and four in the afternoon, from 25th *October* to the 25th *March*, and of eight in the forenoon and six in the afternoon from 25th *March* to 25th *October* inclusive; and every notice given otherwise shall be void. *s. 1.*

Persons to be appointed to administer the oaths, &c.

And by 34 G. 3. c. 73. After reciting, that in many places it may be impracticable to receive the votes of all persons claiming and having a right to vote within the time limited as aforesaid; it is enacted, That when a poll shall be demanded, the returning officer shall, at the request, in writing, of any candidate under his hand, immediately after such request, and before he shall proceed further in taking the poll, appoint two or more persons to administer the oaths of allegiance, supremacy, and the declaration of fidelity, the oath of abjuration, and the declaration or affirmation of the effect thereof, now required to be taken by voters; and to certify the names of electors who shall have taken such oaths, or subscribed and made such declaration

claration or affirmation respectively. And every person so appointed shall immediately, and before he shall act, take the following oath, to be administered by the returning officer or his deputy.

I Do swear, that I will faithfully and impartially administer the oaths of allegiance, supremacy, and abjuration, and the declaration of fidelity, and declaration or affirmation of the effect of the said oath of abjuration, to such persons as shall lawfully apply to me in that behalf, in order to qualify themselves to vote at this election; and that I will, on being thereunto requested, fairly and truly give to every such person, or any of them, who shall take such oaths, or subscribe such declaration of fidelity, and make such declaration or affirmation of the effect of the said oath of abjuration, or either of them, before me, a certificate thereof, according to the direction of an act of parliament, made in the 34th year of the reign of his majesty king George the third, intituled, [Here set forth the title of the act,] and that I will not give such certificate to any person before he shall have taken such oath or oaths, or made or subscribed such declaration or declarations, affirmation or affirmations, as shall be mentioned in such certificate, before me and in my presence. s. 1.

Oath to be taken by such persons.

And if at any time during the election it shall be found that the number of persons so appointed are insufficient for the purpose, and that the poll is delayed thereby; the returning officer, at the request, in writing, of any candidate then present, shall appoint more in like manner as aforesaid. s. 4.

If a sufficient number have not been appointed.

And any person claiming to vote may apply to one of the persons so appointed, to take the said oaths, or to make and subscribe such declaration or affirmation as aforesaid, and such person shall administer the same accordingly, and shall immediately sign and deliver a certificate thereof, which shall contain the name, addition, and place of abode of the person to whom the same shall be so delivered, and to be in the following form: A. B. [naming the person] of [his place of abode, addition, or occupation] has taken the oath, [naming the oath] before me, this — day of —.

Electioners to take the oaths, &c. before such persons, who shall give certificates thereof.

Or, in case of a quaker: A. B. [naming the person] of [place of abode, addition, or occupation] has made and subscribed the declaration of fidelity, and affirmed the effect of the oath of abjuration [naming the same] before me, this — day of —.

And such person, on producing such certificate to the returning officer or person taking the poll, shall be permitted

Production of certificate to entitle to vote.

mitted to poll in like manner as if such oaths, &c. had been taken before the returning officer. *f. 2.*

No person to vote without producing such certificate.

And if any person shall offer to vote without producing such certificate as aforesaid, and being lawfully required to take the said oaths, and make such declaration as aforesaid; the same shall not be administered to him by the returning officer or person taking the poll, but he shall immediately withdraw, and take the same before one of the persons appointed as aforesaid. *f. 3.*

Proper places to be appointed for taking such oaths, &c.

And the returning officer shall provide a proper place for every such person so appointed, to which place the respective electors may have free access without interrupting the poll, and so as the persons so appointed may act separately without interfering with each other; and every such place shall be open and attended by the person appointed to act there, during all the time of the poll, and shall be kept open 8 hours at least in every day, between 8 in the morning and 8 in the evening, until the final close of the poll; and such oaths, &c. shall be administered to as many of the electors, being ready, as conveniently can, not exceeding 12 at one time. And the returning officer shall deliver to each person so appointed as aforesaid, a sufficient number of printed forms of the declaration to be made by quakers, with blanks therein for the names of the persons offering to make and subscribe the same to be inserted therein; and also a sufficient number of printed certificates in the form aforesaid, to be filled up and delivered to each elector so taking the said oaths or affirmation as aforesaid. *f. 5.*

Such places to be provided, previous to the election, if required.

And in case any candidate shall, three days at the least before such election, give or cause to be given notice, in writing, to the returning officer, to provide proper places for administering the said oaths, &c. as aforesaid, he shall prepare and provide such proper places so as to be ready before and against the day of election; and in case there shall not be a sufficient number of fit and convenient places for that purpose, at the town or place where such election shall be had, which the returning officer can conveniently and at a reasonable expence procure; then he shall cause such booths, or temporary erections to be made in convenient places in that behalf as shall be necessary for the purpose; the expence of which, and of the said printed forms, and also the allowance to be made to the several persons appointed to administer the oaths, &c. as aforesaid, (not exceeding one guinea a day each for every day's attendance,) shall

Expences to be defrayed by the candidates.

shall be paid by the candidates in equal proportions, to the returning officer : which, if not paid, may be recovered in the courts at *Westminster*. s. 6.

Players.

IN the case of *K. v. Handy*, E. 35 G. 3. it was determined, That tumbling is not an entertainment of the stage, within the meaning of 10 G. 2. c. 28. which subjects the offender to a penalty of 50 l. *Durnf. and East*, 6 V. 286.

Door. (Certificate.)

E. 28 G. 3. In the case of *K. v. Farringdon*, it was determined, that the allowance of a certificate of a settlement, as having been duly executed, written in the margin of the certificate, and signed by two justices, is alone sufficient proof of the certificate, where the same is above 30 years old, notwithstanding the allowance does not certify the affidavit of one of the witnesses of the due execution and attestation of the certificate, according to 3 G. 2. c. 29. *Durnf. and East*, 2 V. 466.

Proof of the execution.

E. 33 G. 3. *K. v. Testerton*. *John Wood* and his family were removed from *Great Ryburgh* to *Testerton*. The sessions confirmed the order, subject to the opinion of the court on the following case: *Thomas Wood* the pauper's father was settled at *Testerton*, and on 22d April 1755, he and his family were removed from *Great Ryburgh* to *Testerton*. By a certificate, dated 20th June 1755, *Testerton* acknowledged that the said *Thomas Wood* and *Hannah* his wife, with their seven children by name, of whom *John* the pauper was one, were legally settled in *Testerton* when they went and resided in *Great Ryburgh* under the certificate. The pauper lived with his father until he was 20 years of age, when he hired to Mr. *Dade* of *Ryburgh* for a year, with whom he lived two years. The year following he lived with his father in *Great Ryburgh*, and worked as a labourer. He then hired again to Mr. *Dade* for a year, and served

If children be named in a certificate, it will extend to them after they become heads of families.

that year in *Great Ryburgh* and also the following year, when he again returned to his father and worked as a labourer for a year, and then married and has lived in *Great Ryburgh* ever since, but never with his father since his marriage. The pauper's father died in *Great Ryburgh* about four or five years since.—*Garrow*, &c. were to have argued in support of the order of sessions, and *Preston* against it, on the authority of *K. v. Darlington*. But, per *L. Kenyon* Ch. J. the decision of the justices at the sessions in this case is not contrary to that in *K. v. Darlington*. There it was held, that the certificate which was granted to the certified man, extended to his wife and family, to all those who formed a part of the family of the *pater familias*; but that when his son became the head of a new family and had children of his own, their residence in the certificated parish was not protected by it. But here the pauper is mentioned by name in the certificate itself, and he has never gained any settlement, or lived out of the certificated parish since it was given. Order of sessions confirmed. *Durnf. and East*, 5 V. 258.

A certificate extends to a wife married after it is granted, and the husband dead.

E. 33 G. 3. K. v. Hampton. *Barbara Reed* was removed from *Hampton* to *St. Martin in the Fields*. The sessions quashed the order, subject to the opinion of the court on the following case. In the year 1755, *James Duffel* and *Mary* his wife came to reside in *Hampton* under a certificate dated 10th *August* 1755, from *Thackham*, acknowledging *James Duffel* and *Mary* his wife to be legally settled in *Thackham*. After which *Mary* died, and *James* married a second wife on the 14th *April* 1771, named *Mary*, with whom he continued to reside in *Hampton* until the *September* following when he died, leaving the second wife *Mary* surviving, who continued to reside in *Hampton*, and who on 8th *August* 1791 took *Barbara Reed* an apprentice, being a poor girl of the parish of *St. Martin in the Fields*; who was regularly bound to her by the parish officers of *St. Martin*. The apprentice served under the indenture in *Hampton* upwards of 40 days, when her mistress the second *Mary Duffel* died.—This case was argued in *T. Term*, but the bench differing in opinion no judgment was given until this day.—*L. Kenyon*, Ch. J. The question arises on 12 *An.* and it is, whether the pauper could gain any settlement in *Hampton* by serving there as an apprentice to the second wife of the certificated person from *Thackham*: And I am of opinion that she gained no settlement there by such service. It has been decided that a parish certificate extends to those who were not originally

originally included in it as members of the family at the time when it was given, in the *Sherborne* case it was determined that children born after the granting of the certificate, fell within the protection; if it may be so called, or rather (in that case) the disability of the certificate, and that they could not gain a settlement in the certificated parish by hiring and service. Now in point of reason, I cannot distinguish this case from that; for beyond all doubt the certificate extends to the second wife, she is part of the family of the certificated person. In the case of *K. v. Darlington*, we said that the certificate only extended to those who constituted a part of the family of the person to whom it was given; and when the children of that person married and settled, and became the heads of other families, the families descending from them could not claim the protection of the certificate, because they were the members of a different family from that to which the certificate was given. But I think the case of *K. v. Sherborne* decides this; there a child, born after the giving the certificate, was held to be included in it, and consequently could not acquire a settlement in that parish by hiring and service: so here, the second wife was ingrafted into and formed a part of the family of the *pater familias*, and no apprentice or servant could gain a settlement by serving her in that parish to which the certificate was given.—*Buller J.* (a) I confess this case strikes me in a different light from my Lord Ch. J. I think that the reasons given in *K. v. Darlington* decide this case, and prove that the pauper gained a settlement in *Hampton*. The certificate was originally granted to *J. Duffel* and his wife, who were named in it; she died, the husband then married another wife, who survived him; and under the second wife this pauper claims a settlement by apprenticeship. I agree with the proposition, according to *K. v. Sherborne*, that when the husband married the second wife she became a part of his family, and as such was protected by the certificate; and so she continued as long as she remained a part of his family. But I consider the certificate operating in favour of the man and his family, as long as any of the members of it remained part of his family; but when the husband died, the wife was no longer a part of his family, but might have been removed back to his parish. And consequently, any person serving with her there as an ap-

(a) *Ashhurst J.* was absent.

prentice after that time might gain a settlement by such apprenticeship.—*Grose J.* gave his reasons at considerable length, and agreeing in opinion with *L. Kenyon*. The order of sessions was quashed. *Durnf. and East*, 5 V. 266.

Settlement with the parents.

Proof of the father's settlement is sufficient to establish the settlement of the son, if nothing appear to the contrary.

M. 35 G. 3. K. v. Stone. *Mary* the wife of *Thomas Davenport*, and *Mary* her infant daughter, were removed from *Stone* to *Leighford* in *Staffordshire*. The sessions quashed the order, and stated, That *Thomas* had left his wife and family for three quarters of a year, during which time she had not heard of him, nor had he since been in either township. That the settlement of *Thomas's* father was in *Leighford*, but *Thomas* himself was not born there, and it did not appear by any evidence that he had gained any settlement in his own right. It was further stated, that the removal had been made, without any examination of *Thomas* the husband of *Mary*, and that due diligence had not been used by the respondents to find him out. *L. Kenyon Ch. J.* said, that there was nothing in the case; that the evidence produced was legal evidence, and if not contradicted, sufficient to establish the settlement in *Leighford*: but that the sessions seemed to have thought it indispensably necessary to procure further evidence, in which they were mistaken. Order of sessions quashed. *Durnf. and East*, 6 V. 56.

The settlement of a person attainted, is communicated to his children born afterwards.

M. 35 G. 3. K. v. St. Mary Cardigan. *Elizabeth* the wife of *John James*, and her daughter *Mary*, and two sons of *John* by a former wife, were removed from *St. Mary Cardigan*, to *Llanvibangel Ystrad*. The sessions quashed the order, and stated the following case. *James* in 1767 was settled in *Llanvibangel Ystrad*, and in 1770 was convicted of sheepstealing, and sentenced to death, but before execution, he escaped from gaol. Two years afterwards he returned to *Cardigan*, and continued there till 1792; during that time he married and had the said two sons; his wife dying, he married the pauper, by whom he had the said *Mary*. He afterwards absconded. It was agreed, but not stated, that his wife's settlement before marriage was in *St. Mary Cardigan*.—*L. Kenyon Ch. J.* This is a new case in the law of settlements; and although the most has been made of it in the argument, I cannot bring my

my mind to doubt about it. None of the authorities referred to bear upon the present question. A settlement is not the property of any man; it cannot escheat; neither can it be called a franchise; in the case of a franchise it was rightly decided that by attainder the franchise was lost, and that the party had no right to vote at an election. But this person was before his attainder settled in the parish to which the paupers were removed, and I think the father's settlement was communicated to them, and that the justices at the sessions were mistaken. It would be another question whether the man himself could acquire a settlement after the attainder. Order of sessions quashed. *Durnf. and East*, 6 V. 116.

H. 31 G. 3. K. v. Collingbourn Ducis. E. Chandler and his wife were removed from Collingbourn Ducis to Collingbourn Kingston. The sessions quashed the order, and stated the following case. E. Chandler was born in Collingbourn Kingston, where his parents were residing under a certificate from Froxfield. At the age of 19 he was hired for a year to serve J. Childs of Buckholt Farm as a carter, which he served accordingly. Buckholt Farm is extraparochial; is not a township or vill, and has no parish officers. After the pauper had served the year at Buckholt, he returned to Collingbourn Kingston, and then, being unmarried, under age, and not having done any act to gain a settlement in his own right, further than as aforesaid, was hired to, and served, S. Andrews of that parish for a year. The session, being of opinion that the pauper was not emancipated, and that the certificate was not discharged so as to enable him to gain a settlement in Collingbourn Kingston by hiring and service, quashed the order of removal.—By L. Kenyon Ch. J. It is extremely clear, that if the pauper had served a year under a yearly hiring in Collingbourn Kingston before he went to Buckholt, he could not thereby have gained a settlement in that parish while the certificate was in force, on account of the statute of William. It is equally clear that if Buckholt had not been an extraparochial place, his service under the hiring stated would have discharged him from the certificate in Collingbourn Kingston; because then the certificate, which asserted that he was settled in Froxfield, would not have been true in fact, inasmuch as it would in that case have been superseded by a subsequent settlement. But Buckholt not being a parish wherein a settlement could be gained, the question is, whether by any, and what means, the certificate as to this pauper was discharged. In cases of this kind, where

Child emancipated from the father.

the decisions of this court are to guide the judgments of the magistrates, it is of great importance that they should be consistent. Now I am not able to distinguish this case from the principle laid down in *K. v. Wilton cum Twambrookes*. It was there held that a person under age, who after being absent from his father's family for a considerable time, returned to it before he was an adult, or married, and before he had acquired a settlement for himself, was not emancipated, but was entitled to the benefit of his father's settlement. So in this case the son returned before he had attained the age of 21, not having gained any settlement for himself distinct from that of his father, nor having become the head of a family, and therefore this case must be governed by that of *Wilton cum Twambrookes*. The distinction which has been attempted to be taken between some of the former cases and the present, that here the son put himself out to service, is not material; for until the age of 21, not having done either of the acts above alluded to, he continued a part of his father's family. Order of sessions confirmed. *Durnf. and East*, 4 V. 199.

H. 34 G. 3. K. v. New Forrest. *E. Coates*, his wife and two children were removed from *Reeth* to *New Forrest*, both in *Yorkshire*. The sessions confirmed the order, and stated the following case. On old *Martinmas-day* 1777, *E. Coates* hired himself for a year to *G. Bowe* of *New Forrest*, and served that year there; on the 22d *December* 1777 *E. Coates* married his present wife. *William Coates*, a legitimate son of his by a former wife, being within one month of the age of 16 years, and having gained no settlement in his own right, on the same *Martinmas-day* 1777 hired himself for a year to *R. Nelson* of *Ellerton*, which he accordingly served.—*L. Kenyon* Ch. J. (after repeating the statute of *William*) said, that in this case the son was not separated from the father; when the father was hired, the son had gained no settlement for himself; he indeed did on the same day enter into a contract which might or might not have been completed, and which, when completed, would confer a settlement on the son; but at the time when the father entered into the relation of servant at *New Forrest*, the son formed a part of his family. Both orders quashed. *Durnf. and East*, 5 V. 478.

T. 34 G. 3. K. v. Stanwix. *Jane* and *Isabella Campbell* both widows, and the five children of *Isabella*, were removed from *St. Mary's Carlisle* to *Stanwix*, both in *Cumberland*. The sessions confirmed the order, subject to the opinion of

this court on the following case. *Jane* (who is since dead) was the widow of *Alexander Campbell* a Scotchman. *Isabella* is the widow of *William Campbell*, who was the legitimate son of *Alexander* and *Jane*; and the five children are the legitimate children of *William* and *Isabella*. *Alexander* became seized of a messuage and tenement in *Stanwix* by descent, upon which he resided upwards of a year, about the years 1774 and 1775. Some time before, and until the premises in *Stanwix* descended to *Alexander*, he resided at *Glasgow* in *Scotland*, where *William*, about 19 years of age, enlisted and left his father's family in *Glasgow*, which was some years before the above premises descended to his father. *William*, after having been for some time beyond the seas as a soldier, returned to *England* about 13 years ago, (his father being then dead,) and married the pauper *Isabella* at *Plymouth*, and went beyond sea again as a soldier, and at the end of two years returned again to *England*; and about ten years ago he came to *Rickergate* quarter, an adjoining township to *Stanwix*, where he lived six years, and then removed into *St. Mary's* aforesaid, where he lived four years, but never acquired any settlement by any act of his own. *Alexander* sold part of the estate in *Stanwix* in his lifetime, and resided upon the residue, consisting of a house and garden of the yearly value of 2 l. 5 s. till his death, which premises he devised to *Jane* his wife for life, and after her death to *William* his son, his heirs and assigns for ever. But *William* never became possessed thereof, nor resided thereon, having died in the lifetime of *Jane*, who, after her husband's death, continued to reside upon the premises for several years, when she removed to her son in *St. Mary's* aforesaid, about four years ago, and continued to live with him there till his death, and afterwards with his widow, until *Jane* herself died in *January* last.—*Bearcroft* and *Russel* in support of these orders argued, That *William* was settled at *Stanwix*, his father's settlement there being communicated to him. They admitted, that if this were a question between *Stanwix* and any other parish in which *Alexander* had acquired a settlement, the settlement gained at *Stanwix* would not be communicated to the son, because at the time *Alexander* gained a settlement in *Stanwix* the son was not living with him, but had been abroad for some years; but they contended, that as the father had not gained any other settlement, the son would have no settlement at all, if this were not communicated to him, and that from necessity the son was entitled to this derivative settlement. That

Poor. (Settlement with the parents.)

in all cases the child must take the father's settlement, if he have gained none for himself. That in *K. v. Clifton* it was held, that if the father die before the birth of a child, he shall be settled where the father was at the time of his death. That in *K. v. St. Giles's Reading*, it was decided, that the settlement of the father is the settlement of his unsettled children, although he reside elsewhere at the time of their birth. And that in *K. v. Cold Ashton*, it was said, that a child cannot be emancipated unless he has gained a settlement of his own; for that until that time the derivative settlement of his parents is not abandoned.—*L. Kenyon Ch. J.* (stopping *Bower* and *Giles* contra) That means as long as the son continues a part of his father's family. But here the son was emancipated when the father acquired a settlement in *Stanwix*; he had ceased to be a part of his father's family some years before, and had put himself under the control and government of others; and it is immaterial whether or not he had gained a settlement for himself. The case of *K. v. Walpole*, where the son had enlisted himself as a soldier, was considered so clearly to be the case of an emancipation that it was not even argued. Both orders quashed. *Durnf. and East*, 5 V. 670.

E. 35 G. 3. K. v. Roach. The sessions for *Cornwall* confirmed an order for the removal of *Eliz. Rounsfavel* from *St. Columb Major* to *Roach*, and stated the following case. The pauper was born in *Little Colan*, where her father then resided; he afterwards lived in *Roach* and gained a settlement there, and the pauper lived with him until after she was 21 years of age; when she was 22 years old, she was delivered of a bastard child, for the maintenance of which a bond of indemnity was given to *Roach*, and she continued still living with her father. About half a year after, she left her father's house, and went to Mr. *Herrwood's*, a farmer in *Roach*, as a wet-nurse, and lived there eight weeks, for which she was paid 8 s. A few days after she left her father's house, he removed to *St. Columb*, where he rented 12 l. a year, and has lived there from that time; at the end of the 8 weeks, the pauper returned to her father in *St. Columb*, where she has since remained, but made no contract with him as a servant, nor gained any settlement for herself.—This case was argued at considerable length by *Lens* in support of the order of sessions, and *Fanshaw* and *Caldecot* contra.—*L. Kenyon Ch. J.* It has been very properly observed on former occasions, that this court ought to be anxious in determining questions arising on the settlement laws, to lay down clear and distinct rules for

for the information of a very useful class of persons, the magistrates, who are to decide in cases of this kind. And I hope that the rule of decision which we are about to establish in this case, will fall in with every case that has been cited. For with regard to a supposed expression of mine in *K. v. Wiltm cum Twambrookes*, there is an inaccuracy in it. I think I could not have said, because it never was my opinion, that the mere circumstance of a son's attaining the age of 21 was an emancipation so as to prevent his having a derivative settlement gained by his father afterwards, if the son continued to live with the father; for if the son, with unbroken continuance, remain with, and a member of the father's family, he is not emancipated. But this proposition will not break in upon any of the cases, but may be reconciled with all of them, namely, that if a child, under the age of 21, leaves his father's home, and is thereby *quâ* severed from his father's family, and returns to his father during a state of pupilage, during which time policy requires that the child should be under the protection of his father, he must be considered as incorporated with his father's family, unless he has gained a distinct settlement of his own, or has become the head of a family himself: but if the child, after a state of pupilage, sever himself from the father's family, he cannot afterward be incorporated with it. The case of the soldier proceeded upon that principle; he had neither gained a settlement, or was in a situation to gain one, but he had ceased to be under the control of his parents, and had become liable to the control of others; and as he did not return to his father until after he was of age, the case was thought too clear to be argued. But it must not be inferred from the circumstances of that case not having been argued that it passed without consideration, and is not entitled to much notice; because in a subsequent case (a), *Aslon J.* who was a very good sessions lawyer, alluded to it as a case properly decided. And if so, it must govern the present, for I cannot distinguish between them. Some stress, however, has been laid in the argument to-day, on the circumstance of that person having engaged in the situation of a soldier; but that cannot be material in any other way than as shewing that the son was no longer under the control of his father. So, in

(a) *K. v. Halifax*, Burr. S. C. 807.

this case, this woman was above 21; she had contracted the relation of servant with another family; she was out of her father's family; she was under no other control to him than that arising from moral obligation and gratitude; and I cannot see how she could afterwards be deemed to be incorporated with the father's family. The rule to be extracted from the cases is this; if the child be separated from the parents, and without marrying or obtaining any settlement for himself, return to them again during the age of pupillage, he is to all intents a part of his father's family, and his settlement will vary with that of his father: but if, when that time arrives, when in estimation of law the child wants no further protection from the father, and removes from the father's family, he is not for the purpose of a derivative settlement to be deemed part of that family: this rule will reconcile all the cases, and will be found to be an intelligible one. The other judges delivered their opinions to the same effect. Order of lessons confirmed. *Durnf. and East*, 6 V. 247.

Settlement by apprenticeship.

Apprentice to a man who had a certificate, but which was not delivered till after the apprenticeship.

H. 33 G. 3. K.v. Wensley. The pauper being legally settled at *Wensley*, was bound apprentice to *R. Hallam* of *Chesterfield*, with whom he continued two years. Before the pauper was bound to *Hallam*, the overseer of *Chesterfield* told *Hallam* he must procure a certificate, or they would remove him; he accordingly, before such binding of the pauper, procured a legal certificate from the parish of *Chaddesden*, directed to the township of *Chesterfield*, acknowledging *Hallam* to be their parishioner, but nothing further passed between *Hallam* and the overseers of *Chesterfield* respecting the certificate, after their first requisition to him to procure one; he therefore, not being again called upon, did not deliver the certificate to the overseers of *Chesterfield*, and it remained in his hands without mention or further notice during the whole time that the pauper served him as his apprentice at *Chesterfield*; but some time after the pauper left *Hallam*, the certificate was delivered by *Hallam* to the overseers of *Chesterfield*. The sessions confirmed the order by which the pauper and his family were removed from *Chesterfield* to *Wensley*. — *L. Kenyon Ch. J.* We cannot depart from the express and positive words of the

the act of parliament, which are decisive of this question. In the construction of some statutes the courts have thought, from considering the context and the words of it, that some particular words are merely directory; but there is nothing in this statute to shew that the words commented upon should be construed to be directory only. The statute says expressly, that, "if any person who shall come into any parish, &c. shall at the same time procure, bring, and deliver to the churchwardens, &c. of the parish where such person shall come to inhabit, a certificate," &c.; the act therefore requires a delivery at the time when the pauper goes into the certificated parish; and it is essential to the interest of that parish that it should be delivered, as the withholding it from them for a time may be the means of introducing frauds. The case cited (a) only decided that a certificate, though not delivered, was an acknowledgment by the parish granting it that the pauper was settled with them when it was given, but did not determine that it prevented the pauper gaining a settlement in the certificated parish after it was granted. Both orders quashed. *Durnf. and East*, 5 V. 154.

E. 33 G. 3. K. v. Brightelmstone. *J. Humphrey* and his wife and family were removed from *Wivelsfield* to *Brightelmstone*. The sessions confirmed the order, subject to the opinion of the court on the following case. *J. Humphrey* was, at the age of 15 years, regularly bound an apprentice to *J. Soper* of *Alfriston*, weaver, to serve from 3d Nov. 1774 for seven years. He entered accordingly, and served and resided with *Soper* in *Alfriston* until 9th July 1781; from that time until 21st September following he served and resided by direction of his master in a shop hired by his master at *Brightelmstone*; he then returned to and served and resided with his master in *Alfriston* until 22d of October following, when he was sent by his master to the master's father *James Soper* in *West Grinstead* to serve out his apprenticeship, where he resided until 3d November following, when his apprenticeship expired. The court said, that the decision of this case must be governed by those of former cases, and that the distinction attempted to be made between the cases of servants and apprentices could not be supported, but that they both fall within the same rule, and that the cases of *K. v. Lowells* and *K. v. Hulland* go-

Forty days residence successively not necessary to gain a settlement.

(a) *K. v. Buckingham.*

Poor. (Settlement by apprenticeship.)

verned this case; where it was determined, that when a servant lives with his master 40 days in one parish, and then 40 days in another, and then returns and stays one day in the former parish, his settlement will be there. Both orders quashed. *Durnf. and East*, 5 V. 188.

Indenture not produced, how far parol evidence is sufficient.

E. 35 G. 3. K. v. Castleton. *Martha Podley* was removed from *Castleton* to *Bomford* in *Derbyshire*. The sessions quashed the order, and stated the following case. The pauper was alleged to have been bound an apprentice to *N. Timms* of *Castleton*, by indentures bearing date in or about the year 1780. It was proved on behalf of *Castleton*, that there were two parts of the indenture, one of which remained with the parish officers of *Castleton*, and was destroyed; the other was given to *Timms*, who delivered the same to *Miss Taylor* of *Bomford*, at the time of the assignment hereafter mentioned. Application was made to *Miss Taylor*, not then, nor now residing at *Bomford*, for that part of the indenture so delivered to her, who said, she could not find the same, nor knew where it was. *Miss Taylor* is living, but was not subpoenaed to the sessions. *Timms* afterwards, by parol, assigned the pauper to *Miss Taylor* in *Bomford*, and the pauper with his consent served her in *Bomford* upwards of 40 days. The sessions were of opinion, that the above was not sufficient evidence of the indenture. The only question is, whether that part of the indenture which was delivered to *Miss Taylor* is properly accounted for. The court thought the case too clear for argument; that if the indenture could not be produced, evidence must be adduced to shew that it was lost or destroyed. Here it was traced to the hands of *Miss Taylor*, and no further evidence was given to shew what was become of it. Order of sessions confirmed. *Durnf. and East*, 6 V. 236.

Settlement by service.

When the last 40 days service is in different parishes, the settlement is where the servant sleeps the last night.

IN the case of *K. v. Undermilbeck.* *Ann Dixon* and her two children were removed from *Undermilbeck* to *Dalton*. The sessions quashed the order, subject to the opinion of the court on the following case. *John Dixon*, late husband of the pauper, was hired for a year to work as a waller with *J. Bowness* then of *Caldbeck*, at ten guineas *per annum*. He entered upon his service in the beginning of *April 1783*, and continued with his master till *December* following,

when his master having little to do in the walling business in the winter season, gave him leave of absence for six weeks to work for himself wherever he pleased, allowing 15 s. out of his yearly wages. *Dixon* then went to his father's house in *Sawrey*, and continued there seven weeks, being one week longer than he had leave for. About that time his master contracted with one *Braithwaite*, that he and his servant *Dixon* would assist *Braithwaite* in making some fence walls in *Pennington*, where *Dixon* continued working with his master above 40 days, the same being till within about three or four days of the end of the term; when he went away again to his father's house in *Sawrey* with his master's consent; and whilst he so continued in *Sawrey*, the year's service with *Bowness* expired. During the time that *Dixon* worked in *Pennington*, he slept in *Dalton*, but never worked a day's work in *Dalton*. When *Dixon* went the last time to his father's house in *Sawrey*, it was on the *Saturday*, and his year's service would not have expired till the *Tuesday* following. On the *Monday* morning he went to make up some fence wall on his father's account in *Sawrey*, but was taken ill that afternoon, and continued out of health for some weeks afterwards. *Dixon* afterwards went to his master, who paid him his wages, deducting 15 s. for the six weeks absence, and 2 s. 6 d. for the other week he was absent more than agreed for. *Wood* in support of the order of sessions. *Chambre contra* contended, that the residence in *Sawrey* for the last three days could not be connected with the former service in that place, because *Dixon* did not serve there at all during those three days; he was not employed there by his master in any kind of service, therefore the last 40 days service was in *Dalton*. *L. Kenyon Ch. J.* It has been properly admitted that the contract was not dissolved by the servant's absence for seven weeks, because the master consented to it, and received part of the servant's earnings; and as the service continued in contemplation of law during the whole year, I think the servant was settled in *Sawrey*, where he slept the last night, he having before that time served there 40 days in the course of the year. For it has been decided after much argument, that the last day's service may be connected with any preceding service in the same parish, notwithstanding any intervening service elsewhere for 40 days. Order of sessions affirmed. *Durnf. and East*, 5 V. 387.

In the case of *K. v. Worfield*, H. 34 G. 3. The sessions confirmed an order of removal by which *Hannah Philips*

A general hiring implies hiring for a year.

was

was removed from *St. Leonard in Bridgenorth* to *Worfield*, both in *Salop*; subject to the opinion of this court on the following case. *H. Phillips* was born in *Worfield*, where her father's settlement was; about six years ago she went to live with *A. Smith* in *St. Leonard in Bridgenorth*, and served him near a year, but was not hired to him as she knows of. While she lived with the said *Andrew Smith*, *John Jones* of *St. Leonard* met with her, and taking her into his house, asked her if she were hired again to *Smith*? she answered, that she was not. *Jones* then asked her if she would come and live with him and take care of his child, to which she consented, and soon after she went to him; a few days after she had been with *Jones*, he told her he would find her meat, drink and clothes, and asked if she should be satisfied with that? she told him she should; he said he would have given her money, but that it was better for her to have clothes, as she was connected with bad friends, who would take her money. She went to *Jones* at *Christmas*, and lived with him about two years and an half, leaving him in *May*, when her mistress told her that her child was then old enough not to require any further attendance, and dismissed her. She said, in her own opinion she was at liberty to have left *Jones* at any time. *L. Kenyon Ch. J.* It has been so long settled that a general hiring is a hiring for a year, that it ought not now to be controverted. In my opinion the hiring in this case was a hiring for a year; the circumstance of the pauper's going away in the middle of a year, does not show that this hiring was not of such a description; for it was competent to both parties to put an end to the contract whenever they pleased, and here they did dissolve it in the middle of a year. It is much to be wished that in cases of this kind, the justices at the sessions would draw the conclusion, and state it as a fact whether or not there was a hiring for a year. The other judges concurring, both orders were quashed. *Durnf. and East*, 5 V. 506.

Hiring for more than a year.

E. 33 G. 3. K. v. Coltishall. *G. Kettle* and his family were removed from *Coltishall* to *Horstead* in *Norfolk*. The sessions quashed the order, and stated the following case. At *Lady-day* 1785, the pauper being about 18 years of age, and a bricklayer's labourer and settled at *Horstead*, was clubbed (a) with *John Rolfe* of *Coltishall* for three years, at 6 s. per week for the first year, 7 s. the second year, and

(a) The term *clubbing* signifies a person contracting to serve for the purpose of being taught some art or trade, and to have less wages on account of learning the trade.

s. the third year; to board, lodge, and wash for himself; he was to be taught the trade of a bricklayer. An agreement in writing was to be prepared for three years, but was never done. The pauper served two years and upwards, and then, upon some difference, his master and he consented to part. No premium was paid by the pauper to Rolfe. The pauper was to do any work Rolfe set him about, and was not to be absent from his business during any part of the time. L. Kenyon Ch. J. said, that it was impossible to raise a doubt upon the case; for that the concluding part of it, which stated that "the pauper was to do any work his master set him about," was decisive to shew that he must be considered as a hired servant; and that although one of his objects was to learn a trade, that was deemed equivalent to part of his wages. Order of sessions confirmed. *Durnf. and East*, 5 V. 193.

E. 33 G. 3. *K. v. Hampreston*. On an appeal against an order of removal from *Gillingham* to *Hampreston* in *Dorsetshire*; the session confirmed the order, and stated the following case. The pauper *W. Gray* being settled at *Hampreston* went to one *S. Hannam* a miller of *Gillingham*, and agreed to serve him for 3 s. 9 d. per week; he considered himself obliged to serve his master on *Sundays* as well as other days; and accordingly served on *Sundays*. "They had a liberty of parting on a month's notice on either side." He received 1 s. as earnest to bind the bargain. There was no mention of time, or for how long he should serve. He continued under this contract about two years and a half, residing in *Gillingham* in the house of his master. He then went to *Tisbury* to be inoculated, where he remained two months. *Hannam* then sent for him, and he was hired again by him at the rate of 4 s. per week. He continued to live with *Hannam* under the last contract for two years and a half, during which time he resided in his master's house in *Gillingham*. L. Kenyon Ch. J. It is admitted, that since the case of *K. v. New-Windsor* the circumstance of the parties having it in their power to determine the service on giving notice will not defeat the settlement, where there is a contract for a year, and a year's service under it. Neither could it be disputed by the counsel, who argued in support of the order of sessions, that a general hiring is not a hiring for a year. In each of the cases cited (a) there was something to shew that the parties

Hiring at so much per week conditionally to part on giving a month's notice, is a general hiring.

(a) *K. v. Newton Teney*, *K. v. Odiham*, *K. v. Dedham*, *K. v. Birdbrook*, and *K. v. Bradninch*.

did not intend that it should be a general hiring ; one was as long as the master wanted a servant, another as long as the parties liked, where, without any notice, the contract might immediately have been determined. But wherever the relation of master and servant is to continue for an indefinite time, and cannot be put an end to at the election of either party without notice, there the hiring must be understood to be a hiring for a year. If this were not a general hiring, those who disputed that proposition, should have pointed out for what time it was to continue ; and indeed it has been contended to be for a month, or a month added to a week, but there is no foundation for either : for if that were so, the pauper might have left the service at the end of the first month, or of the five weeks, without giving any notice at all ; but there is no pretence for that, for by the terms of the contract he was to give a month's notice before he could determine it. And this is distinguishable from *K. v. Bradninch*, for there was a hiring for a stipulated time less than a year. In this case, independent of the first contract, the parties met again after an absence, and the pauper was a second time hired at 4 s. per week, the pauper insisting upon an increase of wages. This also was a general hiring, which in law is a hiring for a year, and the pauper having served more than a year under it in *Gillingham*, acquired a settlement there. *Ashhurst, Buller, and Grose, Js.* concurred. Order of sessions quashed. *Durnf. and East, 5 V. 205.*

Hiring by
implication.

T. 33 G. 3. K. v. Lyth. Two justices removed *Thomas Carling* from *Whitby* to *Lyth* in *Yorkshire*. The sessions confirmed the order, and stated the following case. On behalf of the respondents it was proved, that the pauper was the legitimate son of *W. and M. Carling*, and was born in *Lyth*. On behalf of the appellants, in order to shew a derivative settlement in the pauper from his father in a third parish, it was proved that *W. Carling*, before his marriage, was a few days after *Martinmas 1731*, seen and known to be in the service of one *Campion* in *Barnby*, as a servant in husbandry ; and was from time to time seen and known to act in that capacity with *Campion* at *Barnby*, for some time upwards of a year. Evidence was then offered on behalf of the appellants, to prove that *Campion*, who is long since dead, had declared in his lifetime, that *W. Carling* had been hired with him for a year : but the sessions were of opinion that such evidence was not admissible. It was then also proposed to give evidence of declarations to the same effect by *W. Carling*, who is also dead,

dead, touching such hiring; but the sessions also refused to admit such evidence. Whereupon the sessions being of opinion, that there was no evidence of a hiring for a year, confirmed the order, subject to the opinion of this court upon the propriety of rejecting the evidence above offered of the declarations of *Campion* and *W. Carling*; and also whether, after rejecting such declarations, they had done right in refusing to infer the hiring from the fact of service proved as above stated.—When this case was called, *L. Kenyon*, addressing himself to the counsel who were to argue it, said, the case was drawn up in too loose a manner for the court to give any solemn judgment upon it; for in some parts of it evidence was stated instead of facts: and the court were left to draw inferences which the magistrates below ought to have done. But that, if the sessions wished to know whether, from the evidence stated relative to the hiring of *W. Carling*, they were at liberty to draw the conclusion of his having been hired for a year; in fact, the court had no hesitation in thinking that they might legally draw such an inference. He therefore thought, that this advice of the court might be given to the magistrates without the necessity of entering any regular judgment upon this case as it now stood, or putting the parties to the expence of stating the case again.—*Wood*, in support of the order, cited the case of *K. v. Pitminster*. But *L. Kenyon* Ch. J. said, in the *K. v. Pitminster* it appears, that the pauper was taken out of charity; and therefore the presumption of an hiring was taken away. But this is the case of a servant in husbandry, whose service for a year affords very strong presumptive evidence of an hiring for a year. But however strong that presumption is, as only the evidence of the hiring is stated, and not the fact itself, we cannot decide upon the case; though the sessions must be directed to draw the conclusion, that *W. Carling* was hired for a year from this evidence.—Case sent back to the sessions. *Durnf. and East*, 5 V. 327.

Also in the case of *K. v. Hales*, T. 34 G. 3. Two justices removed *Martha Mitchel* from *Hales* in *Norfolk* to *Wrentham* in *Suffolk*. The sessions quashed the order, and stated the following case. The pauper being settled in *Wrentham*, a fortnight after old *Michaelmas* 1792, heard from Miss *L. Garnham* of *Beebles*, that her father Mr. *Garnham* of *Hales* wanted a servant, and agreed with her to go to him a month on liking; she went accordingly; and in the spring following Miss *Garnham* told the pauper, that if she behaved well and did her work properly, she should have

have 4l. for a year. The pauper continued in Mr. Garnham's service without any other agreement until the *Christmas* following, when she went away; but a fortnight after *Michaelmas* 1793, she received 4l. for a year's wages then due; and for the remainder of the service from that time she received 18d. a week, being the proportion of wages then due at the rate of 4l. *per ann* — L. Kenyon Ch. J. At present the case is so imperfectly stated that we cannot give any judgment upon it. A retrospective hiring certainly is not sufficient to confer a settlement, but as the pauper continued in the same service after the expiration of the first year, there was abundant ground for the justices to have presumed a hiring for a year from that time. However, as the fact is not stated one way or the other, the case must be sent back, where most probably the justices, after hearing the intimation of this court, will find the fact of a hiring for a year, which will put an end to the case. Case sent back to the sessions. *Durnf. and East*, 5 V. 668.

Hiring for a year, and service for a year, but not 40 days service under the yearly hiring.

H. 33 G. 3. K. v. Adson. T. Jakeman and his wife were removed from *Adson* to *Church Stow*, both in *Northamptonshire*. On appeal the order was quashed, and the following case stated. The pauper was hired in *Church Stow* eight days after *Old Michaelmas* 1786 to the *Old Michaelmas* following, and continued in his master's service till the day after *Old Michaelmas day* 1787, when he was hired by his master till the *Michaelmas* following; and under that hiring he only served ten days. The sessions thought that the second hiring was a hiring for a year, but that the pauper had gained no settlement under it, as he had not served 40 days subsequent to that hiring. This case was argued in *Michaelmas* term last, when only L. Kenyon and Mr. J. Grose were present; when L. Kenyon was of opinion, that a settlement was gained by the hirings and service stated in the case, but J. Grose being of a different opinion, it stood over for further consideration; and now L. Kenyon said, that they were both of opinion that the pauper gained a settlement in *Church Stow*. Order of sessions quashed. *Durnf. and East*, 5 V. 98.

Servant marrying during the year, and making a new contract.

T. 24 G. 3. K. v. Great Chilton. Two justices removed W. Blakey and his wife and family from *Merrington* to *Great Chilton*, both in the county of *Durham*. The sessions confirmed the order, and stated the following case. The pauper, about 12 years ago at *Martinmas*, being then unmarried and without any child, was hired by W. Grenwell of *Great Chilton* as a servant in husbandry for a year, commencing

mening from *Martinmas*, his wages were to be about 8l. with meat, drink, washing and lodging in his master's house. He entered upon his service at *Martinmas*, and resided in his master's house in *Great Chilton*. In *January* next he married his said wife, but continued as a menial servant with *Grenwell* until *May-day* following. Some days before *May-day*, *Grenwell* and he agreed, that he with his wife should go as a hind to reside on, and manage another farm which *Grenwell* had in the same township; this second agreement was for a year from that *May-day*, and he was to have 5s. a week, the house to live in rent free, and some other trifling perquisites as persons in that capacity usually have: and accordingly he served as a hind two years from that *May-day*, being all that time a married man. He has not gained any settlement since.—*L. Kenyon Ch. J.* This case appears to me not free from difficulty and doubt, but upon the whole, I think that the pauper gained a settlement in *Great Chilton*. To the above case of *K. v. St. Giles's Reading*, I perfectly accede; but that cannot decide the present case. There the pauper was hired generally, which the law construes to be a hiring for a year, at a time when it was competent to him to acquire a settlement by hiring and service; he was then unmarried: when the year expired, there was an end of the contract; by continuing in service after that time, the court would infer a second hiring for another year: but at the end of the first year he was a married man, and was disabled from gaining a settlement by a service under a contract entered into at that time. But in the present case, the pauper was unmarried when he made the first agreement, and though he married in the course of that year, it has been very properly admitted, that that alone did not defeat his settlement, if he served out the remainder of the year under the original agreement made before his marriage. But it has been contended that that contract was dissolved. I admit that, if there were an end of the relation of master and servant when the second agreement was made, the pauper could not gain a settlement in *Great Chilton*, but I do not think that that was the case. An alteration, indeed, in the man's situation took place: perhaps it was more convenient for him to live with his wife in a separate house, than to continue to live in his master's family, and therefore it was agreed that he should go to another farm of his master's in the same township. But that alone did not put an end to the former contract. If a master, who had kept house and an establishment of servants, chose to

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break

break up housekeeping in the middle of the year, and to put his servants on board wages, that would not put an end to the relation between the master and his servants, nor defeat the settlements of the latter. Then it was objected that the servant's employment after his marriage was different from that under the original contract; but I cannot discover much difference, for under both agreements he was to serve in husbandry. And even if the nature of the service were varied, that would not defeat his settlement. A footman who was converted into a butler, would gain a settlement by completing a year's service, notwithstanding such a change in his station. In this case also there was a prolongation of the time of service, and he was to continue half a year beyond the period originally agreed upon; there was also an alteration of wages adapted to his change of situation: but I do not think that either of these circumstances affects the case. The whole question turns on this, whether or not there was a dissolution of the former contract; for if there were, the second agreement was made at a time when by law he was disabled from gaining a settlement by hiring and service. I speak with great diffidence on this case, understanding that the majority of the court are against my opinion. But it strikes me, that there was no end of the relation of master and servant, even for a moment, during the whole time the latter continued in the service; and that, as the first contract was not dissolved by the subsequent alteration of situation, the pauper gained a settlement in *Great Chilton* by serving more than a year under a yearly hiring entered into when he was an unmarried man. The *K. v. Alton* (a) warrants this opinion, though that indeed appears to be a more doubtful case than the present; because there, under the second agreement, the pauper was to work by the piece, which seems to imply a liberty either to work or not as he pleased. — *Ashburst J.* At first I was inclined to think that the first contract was not absolutely dissolved, and that the second was merely a continuation and modification of it: but on further consideration, I am of opinion, that the first contract was entirely put an end to by the second. This is very distinguishable from *K. v. Alton*, for there the principal alteration was in the terms of the contract respecting wages; the servant was to be paid by the piece instead of by the year: whereas, in this case, there was a variation also

(a) 2 *Const's Bott.* 382.

in other circumstances. Under the first contract the pauper was to live in his master's house as part of his family, and was to receive the yearly wages of 8l.; under the new contract the terms were materially altered; the servant was to go into another farm of his master's, he was to receive weekly wages, and was to continue in service for a year from that time. After the second contract, if the master had wished to compel the servant to return to his own house, and to live in his family at the former wages, the latter might have resisted on the ground of the second contract, which shews that the former one was abandoned, and that the pauper was not serving under it. Then, if the second were a new contract, distinct from the former one, the services under the two cannot be coupled for the purpose of giving the pauper a settlement, because at the time of entering into the second he was married.—*Grose J.* I agree to the *Alton* case; and here, if the original agreement had continued in force, the pauper would have gained a settlement by serving a year under it. But the question is, whether or not there were a dissolution of the service and of the first contract. I cannot say that the service under the second contract was a service under the first; because, on comparing the two contracts together, it appears that there is a difference in the duration of the term, in the kind of service, and in the wages, the former of which is most material; and where two agreements are totally inconsistent, the second must operate as a dissolution of the first. By the first contract the pauper was hired for a year to commence at *Martinmas*; he served under that till *May* following, when he made another agreement with his master for another year, to commence at that day. Suppose at the end of the first year the servant had said that he would no longer continue in his master's service, for that he had been serving under the first agreement only, and was not bound to serve under the second; there is no doubt but that the master might have compelled him to serve until the *May* following, by virtue of the second agreement. This shews that the second agreement put an end to the first. It is not necessary to lay so much stress on the two other instances of difference between the two contracts, the kind of service, and the quantum of wages; I rely most on the alteration of the term of service, which I think is decisive.—*Lawrence J.* It seems to me that in those cases no question arises respecting the benefit of any particular settlement gained by the pauper, but that the question must be con-

sidered on the facts as between the two contending parishes, because if the pauper be not settled in one, the burthen of maintaining him and his family falls on the other; and therefore there can be no bias in favour of one or the other settlement. In order to gain a settlement by hiring and service, there must be a hiring for a year and a service for a year, and the service for the last 40 days must be performed under a contract of hiring, entered into when the pauper was unmarried. Then the question in the present case is, whether or not there were a dissolution of the first contract, and not whether there were a discontinuance of the service; for in *K. v. St. Giles's Reading*, the pauper continued all the time in the master's service; and there is no difference in this respect, whether the contract be put an end to by flux of time or by agreement. The only way in which it can be considered that the pauper gained a settlement in *Great Chilton* is, by treating the second as a prolongation of the original contract; and it has been argued that, by the second agreement, the pauper was to serve until the end of the then current year, and for six months longer. But it strikes me, that this is not the fair construction of the second agreement; at the end of the first six months service, the pauper did not agree to serve for six months after the end of that year, but for a year to commence at the time of the second agreement. On the whole it appears to me, that the second contract was distinct from the former one, and put an end to it, because the second was inconsistent with it; so that the pauper gained no settlement in *Great Chilton*, because the service for the last 40 days was not performed under a yearly hiring entered into when he was unmarried. Both orders quashed. *Durnf. and East*, 5 V. 672.

Servant with the same master, but removed from his house on account of sickness, is still considered as residing with him.

T. 34 G. 3. *K. v. Sutton*. H. Boardman the pauper being settled in *Sutton*, was about *Christmas* hired for a year by Mr. Kerfoot of *Great Sankey*, to serve in husbandry for 7l. 10s. and 5s. more, in case his master approved of his service. He continued in that service until, by the visitation of God, he was deprived of his reason, about the beginning of *November* next following, when his father fetched him away to his own house at *Bold*, and in two or three weeks afterwards he received the wages of 7l. 10s., but not the 5s. and the father afterwards kept him at home, as part of his family, for about ten years, in *Bold*, where the father died; the son all that time, as well as since, continuing in the same situation. The session on appeal confirmed the order by

by which he was removed from *Bold* to *Sutton*, and stated the above case for the opinion of this court.—*L. Kenyon* Ch. J. The cases that have already been decided on this subject have settled the principle on which our judgment must proceed in this case. As this is a removal from *Bold* to *Sutton*, all we are called upon to decide in this case is, whether or not the pauper be now settled in *Sutton*, and whether the settlement which he gained in that place, has or has not been superseded by a subsequent settlement; for any question that may hereafter arise between the parishes of *Bold* and *Great Sankey* will not affect the case now before the court. It is stated, that the pauper was hired for a year in *Great Sankey*; that he continued in that service as long as he was capable of performing it; but that in the course of the year he was deprived of his reason, and consequently rendered incapable of discharging his duty to his master. But in the consideration of questions of this kind, it is immaterial whether the servant's incapacity to perform his service proceed from an infirmity of body or of mind. Where indeed the servant commits a crime, the master may apply to a justice to have him discharged; but if no such application be made, the relation of master and servant subsists. In this case, there being no fault in the servant, nor any application to a magistrate to discharge him, (for which indeed there was no cause,) I am clearly of opinion that the relation of master and servant continued during the whole year, and consequently, that the pauper acquired a settlement by that service. If he had recovered his reason before the expiration of the year, the master might have been compelled to receive him again into his house. It was said by *L. Mansfield*, in *K. v. Christchurch* (a), that the absence of the servant, on account of sickness, will not prevent his gaining a settlement; and that it is immaterial whether or not such absence happen in the middle or at the end of the year. With regard to *K. v. Sharrington* (b), though it was not argued, it appears that the court exercised their judgment upon it, and I subscribe to the doctrine of it. These observations are sufficient to dispose of this case: but there is another question behind; and as probably the magistrates below will be called upon to make another order, I will beg to say

(a) Burr. Settl. Cas. 494.

(b) Const's edit. Bott. 2 V. 525.

a few words upon it, for the sake of their information. That question is, whether supposing the pauper gained a settlement, by reason of his service with *Kerfoot*, he is settled in *Great Sankey*, the parish where the master lived, and where the service was in contemplation of law performed, or in *Bold*, where the father lived, and received his son for the last 40 days of the year. And upon this question I have as little doubt as on the other point; being of opinion that the settlement is in *Great Sankey*, where the service was in law performed, though the servant did not, in point of fact, reside there the last 40 days of the year. In general, the servant is settled in the parish where he serves the last 40 days: but I consider the residence with the father, under these circumstances, as a residence in an hospital. We should thwart our own feelings, and act contrary to humanity and principles of public policy, if we were to determine that the father, in this case, brought a burden on his parish, by receiving his son into his house from motives of tenderness and affection. And it must be remembered, that this is not a case *sui generis*; there are others that stand *in pari ratione*. In general, a bastard is settled in the parish where he is born; but if he be born in a gaol, or house of correction, his settlement is in his mother's parish. And I think that the case of *K. v. Sharrington* goes some way to warrant my opinion in this case. For I cannot consider the pauper's residence with his father as a performance of service with his master; he was there *diverso intuitu*, in order to recover from his illness, and not for the purpose of serving his master. I am therefore clearly of opinion, that the pauper's former settlement has been superseded by the subsequent one which he gained in *Great Sankey*. The other judges concurred. Both orders quashed. *Durnf. and East*, 5 V. 657.

What shall be deemed a dissolution of the contract.

H. 35 G. 3. K. v. Thistleton. W. Newton and his family were removed from *Knawston* to *Thistleton*. The sessions confirmed the order, and stated the following case. The pauper being settled at *Thistleton*, was hired by Mr. *Raworth* of *Knawston*, from *Martinmas* to *Martinmas*, and entered upon the service; and before the end of the year, he went to *Billesden* statutes, which are before *Michaelmas*, and hired himself to Mr. *Humphreys* of *Billesden*, to enter into his service on the 19th of *October*, if Mr. *Raworth* would let him come then; and if he refused, he was then to come at the end of his year. The next day the pauper asked his master to let him go, who said he could not spare him, he must get a new servant first. Some time after he hired

hired a new servant, and then said, "I have got a new servant; you may go now; I have not work for you both." The master then paid him his whole wages, and he went away. This was about a fortnight before *Martinmas*, and he entered into his new service in three days.

—*L. Kenyon* Ch. J. The distinction between the different cases upon this subject seems to be this: if the pauper be absent from the service, with the concurrence, remaining, however, subject to the control of the master, he may acquire a settlement, because this only amounts to a dispensation with his service: but if the master has once parted with his control over the servant, there no settlement is gained; and the receiving of the whole year's wages does not make any difference. In this case, the master had given up all control over the servant; he himself was instrumental in enabling the servant to make another contract with another master; and from what passed between these parties, it was evidently the intention of both that the pauper should become *sui juris*, and should be enabled to contract with another master. The cases, in which it has been determined that a settlement was gained, notwithstanding the servant was not in actual service during the whole year, proceeded on artificial reasoning, on a supposition that the relation of master and servant continued throughout the year. But that idea is inconsistent with what was done in this case; for if that relation had subsisted here, the master might have insisted on the pauper's returning into his service after the wages were paid: but he agreed not to insist on that when he parted with the servant. It is miscalling this a dispensation with the service; for upon the agreement to part, the pauper's liability to serve the first master ceased. *Ashhurst* and *Grose*, Js. gave their opinions to the same effect. Order of sessions confirmed. *Durnf. and East*, 6 V. 185.

Settlement by marriage.

T. 35 G. 3. *K. v. Bramley*. *Sarah Ward*, widow of *J. Ward*, and her three children, were removed from *Leeds* to *Bramley*. Upon appeal, the respondents produced evidence of the settlement of *J. Ward* being at *Bramley*; and, in order to prove his marriage with the pauper, witnesses were produced, who proved that they had cohabited

The mother is a competent witness to prove the illegitimacy of her children.

and lived together as man and wife, and were reputed to be man and wife till his death. The appellants offered to produce *Sarah* as a witness, to prove that she never was married, or if she was, it was in *Ireland*, under such circumstances as rendered it void. The appellants also offered witnesses to prove the declarations made both by *James* and *Sarah*, at different times, that they were never married. The respondents insisted that this evidence was inadmissible; and the sessions being of that opinion, rejected the same, and confirmed the order, subject to the opinion of this court, whether the evidence offered was admissible or not.—By *L. Kenyon Ch. J.* This evidence was certainly admissible, though the justices were to judge of the effect of it. In the case of *K. v. St. Peter's*, it was expressly held, that the supposed husband was a competent witness to disprove the marriage. There are also many other cases, in which it has been decided, that the parents may be called as witnesses with respect to the legitimacy of their issue; and if they may be called to prove that they are legitimate children, there is no reason why they should be considered as incompetent, when called to prove that the children are illegitimate. But in all these cases such testimony is open to great observation. *Durnf. and East*, 6 V. 330.

Settlement by 10l. a-year.

Residence for 33 days by a widow on a tenement of 10l. a-year cannot be coupled with a residence on the same tenement with her husband for 16 days preceding, so as to gain her a settlement.

T. 34 G. 3. *K. v. South Lynn.* Two justices removed the four infant children of *Ann Howard* widow, from *South Lynn* to *East Bilney*, both in *Norfolk*. The sessions quashed the order, subject to the opinion of this court on the following case. *C. Howard*, the father of the paupers, was settled in *East Bilney*, prior to the 24th *October* 1792. On the 23d *October* 1792, the said *C. Howard* being then, and some time before, in possession of a cottage and land in *Wiggenhall St. Peter's* in *Norfolk*, at the yearly rent of 2l. 12s. 6d., hired a house in *South Lynn*, at the yearly rent of 9l. and paid 10s. 6d. in part of the rent, and on the following day, he and his wife and their said four children entered into possession, and resided thereon till his death, on the 8th *November* 1792, still keeping possession of the cottage and land in *Wiggenhall*. *C. Howard* died intestate, and no letters of administration have been granted to his widow, or any other person, but she kept possession of, and occupied the house and cottage in *South Lynn*.

Lynn and Wiggenhall, but she and her children resided in *South Lynn* until 11th December 1792; and on her quitting the house at *South Lynn*, she paid the landlord 12s., which, with the money paid him before by her husband, was for half a quarter's rent. After this, she remained in possession of the cottage in *Wiggenhall*.—By *L. Kenyon Ch. J.* If we were to decide on the express words of the act of parliament, we should overturn 99 cases out of 100 that have been determined on this statute. If a mere residence on a tenement for 40 days irremovable were sufficient to give a settlement, every lodger and every servant, residing for that length of time, would then acquire a settlement; but in order to gain a settlement, by residing on a tenement of the yearly value of 10l. the party must stand in the relation of tenant to the property for 40 days. Here there was an inchoate right in the husband, and afterwards in the widow, which, if completed by a full residence of 40 days, in either case would have been sufficient: but that one necessary act, residence for 40 days by the same tenant, to the property, was wanting. The husband, after residing 16 days on this estate, died, and then the wife resided on it; but what privity was there between the husband and wife, as to this property? It appears that she did not take out letters of administration, so as to give her a settlement by residing on her own for 40 days, nor did she reside on the estate for that time as tenant of the premises; and indeed she was not solely entitled to administration. The case of *K. v. Netherseal (a)*, is different from the present, because there the estate was bequeathed to the widow, whose second husband lived 40 days upon it; but here there was no privity of contract or of interest whatever between the pauper and her late husband; and we cannot connect the residence of the husband as tenant, with the residence of the widow as tenant, so as to complete the 40 days residence by both. Though this case is new in specie, it is not new in principle; and upon the principles established in former cases, I am of opinion, that the widow did not acquire any settlement in *South Lynn*. The other judges concurred. Order of sessions quashed. *Durnf. and East*, 5 V. 664.

In the case of *K. v. Londonthorpe*, T. 35 G. 3. it was determined, that renting land of 6l. 10s. 6d. a-year, and on a part thereof the tenant built a post windmill, which

Renting a post wind-mill gains no settlement.

(a) *Durnf. and East*, 4 V. 258.

was constructed upon cross traces, laid upon brick pillars, but not attached or fixed thereto, (which is the usual mode of building mills of that nature,) and which mill cost building 120l., and which, by agreement with the landlord, the tenant was to be at liberty to remove at pleasure, and which he let for a part of the time for 9l. a-year; is not such a taking a tenement of 10l. a-year as will confer a settlement. *Durnf. and East*, 6 V. 377.

The executor to a tenant of an estate under 10l. a-year, gains a settlement by 40 days residence, although he do not prove the will.

E. 35 G. 3. K. v. Stone. Two justices removed *E. Syme* from *Salt* and *Enson* to *Stone* in *Staffordshire*. The sessions confirmed the order, and stated the following case. That the pauper was settled in *Stone*; that he went to live with his father-in-law, *E. Bentley*, in *Salt* and *Enson*, who rented from year to year a cottage and about six acres of land, under the yearly value of 10l. *Bentley* died, and by his will gave all his personal estate and effects to the pauper in trust, that he would allow the testator's wife a sufficient maintenance thereout during her life; and, at her decease, his personal estate and effects should be divided amongst his (the testator's) five children, the pauper's wife being one; and he appointed the pauper sole executor of his will. Upon the testator's decease, the pauper possessed himself of all his personal estate and effects, and continued in possession of the cottage and lands, without coming to any agreement with the landlord, buying and selling every thing, paying the rent, and maintaining the widow until his removal, which was upwards of three years; but he did not prove the will till three days previous to his removal.—*L. Kenyon Ch. J.* I cannot distinguish this case from *Mursley v. Grandborough* (a), and the other cases in which it has been held that an executor or devisee of a leasehold estate, of less value than 10l. a-year, gains a settlement by residing upon it for 40 days. It is said, however, that this pauper was a mere trustee: but no one had a right to take the estate from him; he took it liable to all the testator's debts, and the creditors would have had a right to call on him for payment of their debts, before he made any distribution of the testator's property under the will. In fact, the pauper resided on this estate for more than 40 days; and the established rule, which we ought to preserve with anxiety, is, that though a person cannot acquire a settlement, by a purchase, for less than 30l. paid, yet if he take such estate by devise, he may; so, though he

(a) 1 Str. 97.

cannot gain a settlement by renting a tenement of less value than 10 l. a-year, yet if such an estate devolve on him by operation of law, he may gain a settlement by 40 days residence on it. The distinction taken between a tenant from year to year and a tenant for a term of years, is rather a distinction in words than in substance. A tenant from year to year is entitled to estovers and the same advantages as a tenant for a term of years. In truth, he is a tenant from year to year as long as both parties please. And considering how many large estates are held by this tenure, it would be dangerous to say, that the term ceased at the end of the year, because then the landlord might lose his right of distress. Although on my first reading this case, it struck me as a very minute interest to confer a settlement; on consideration, I am satisfied that we cannot, without overturning a variety of cases, determine that the pauper did not gain a settlement by residing on it for 40 days. The other judges gave their opinions to the same effect. Both orders quashed. *Durnf. and East*, 6 V. 295.

Removal.

BY 35 G. 3. c. 101. so much of 13 and 14 C. 2. c. 12. as enables justices to remove persons that are *likely* to be chargeable to the parish, township, or place where they inhabit, is repealed. And it is enacted, that after 22 June 1795, no person shall be removed from the parish or place where he shall inhabit, to the place of his last legal settlement, until he become *actually chargeable* to the place where he shall inhabit; in which case, two justices may remove such person, in the same manner, and subject to the same appeal, and with the same powers, as might have been done before the passing of this act, with respect to persons likely to become chargeable. *s. 1.*

No person is to be removed, till he become actually chargeable.

And whereas poor persons are often removed or passed to their settlements during sickness, to the danger of their lives; for remedy thereof, in case any poor person shall be brought before any justice or justices for the purpose of being removed by an order of removal, or by a vagrant pass, and it shall appear that such poor person is unable to travel by reason of sickness or infirmity, or that it would be dangerous so to do, the justice or justices who shall make such order of removal, or grant such pass, may suspend

Removal of sick persons may be suspended.

Charges of such suspension to be paid by the parish removed to.

Which may be levied by distress, with costs.

If costs exceed 20 l. appeal may be made to the sessions.

Not to alter the power to pass or punish vagrants.

pend the execution thereof, until they are satisfied that it may safely be executed without danger ; which suspension of, and subsequent permission to execute the same, shall be indorsed on the said order or pass, and signed by such justice or justices. And no act done by any such poor person continuing to reside under the suspension of any such order, shall be effectual, in whole or in part, for the purpose of gaining a settlement. And the charges proved on oath to have been incurred by such suspension, may by the said justices be directed to be paid by the churchwardens and overseers of the place to which such poor person is ordered to be removed, in case any removal shall take place, or in case of the death of such pauper before the execution of such order ; and if the churchwardens or overseers of the place to which the order shall be made, shall, upon the removal or death of such pauper, refuse or neglect to pay such charges within three days after demand, and shall not within the same time give notice of appeal as hereinafter mentioned ; one justice, by warrant under his hand and seal, may cause the money mentioned in such order to be levied by distress and sale of the goods and chattels of the person so refusing or neglecting payment thereof, and also such costs, not exceeding 40 s. as such justice shall direct. And if the place to which such order of removal was made, be without the jurisdiction of the justice issuing the warrant, then such warrant shall be transmitted to any justice having jurisdiction within such place, who, upon receipt thereof, shall indorse the same for execution. *f. 2.*

Provided, that if the sum so ordered to be paid on account of such costs and charges, exceed 20 l. the party aggrieved may appeal to the next sessions against the same, as they may do against any order of removal by any law now in being ; and if such sessions be of opinion that the sum so awarded be more than ought to have been directed to be paid, such court may strike out the sum contained in the said order, and insert such sum as in their judgment ought to be paid ; and shall direct that the said order so amended, shall be carried into execution by the said justices by whom the order was originally made, or either of them, or in case of the death of either of them, by such other justice or justices as the said court shall direct. *id.*

Provided, that nothing herein shall alter or abridge the power of justices to pass or punish vagrants as directed by 17 G. 2. c. 5. except so far as regards the power of suspending

pending the vagrant pass in the manner, and for the causes aforesaid. *id.*

And no person, after the passing of this act, shall be enabled to gain a settlement by delivery and publication of any notice in writing; nor by being charged with and paying taxes in respect of any tenement or tenements, not being of the yearly value of 10l. *s. 3, 4.*

Provided always, that every person who shall have been convicted of larceny, or other felony, or deemed a rogue, vagabond, idle, or disorderly person by the laws now in being; or who shall appear to two justices where such person shall reside, upon the oath of one witness, to be a person of evil fame, or a reputed thief, such person not being able to give a satisfactory account of himself, or of his way of living; shall be considered as a person actually chargeable within the meaning of this act, to the parish where he shall reside, and may be removed to his place of settlement. *s. 5.*

Provided also, that every unmarried woman with child, shall be deemed and taken to be a person actually chargeable to the place where she shall inhabit, and may be removed as such to the place of her settlement; and in case any order of removal of such person shall be suspended for any of the reasons aforesaid, and during such suspension she shall be delivered of a bastard child, the settlement of such mother at the time of her delivery, shall be deemed the settlement of such child. Provided nevertheless, that all acts heretofore made touching bastard childred, or concerning the mothers or reputed fathers of such children, shall remain in full force, as well in cases where by this act the settlement of such children is directed to be the same as that of the mother, as where the settlement remains as it did before. *s. 6.*

T. 34 G. 3. K. v. Clayton le Moors. Two justices removed *J. Farrer* and his wife and family from *Clayton le Moors* to *Clitheroe*, both in *Lancashire*. On appeal the order was quashed, subject to the opinion of this court on the following case. The counsel for the respondents called a witness who produced a written paper, whereof the following is a copy: *Middlesex* to wit. The examination of *James Farrer* late of *Clayton le Moors* in the county of *Lancaster*, but now a soldier in his majesty's first regiment of foot guards, touching his settlement, taken on oath before us *W. Addington* and *W. Kitchiner* esq:s. two of his majesty's justices of the peace in and for the county of *Middlesex*, this 26th of *April* 1794; who on his

No person to gain a settlement by notice, nor by paying taxes for lands under 10l. a year.

Rogues, &c. to be deemed chargeable.

Unmarried women with child to be deemed chargeable.

Bastards to follow their mother's settlement, where the removal is suspended.

Former acts touching bastardy to remain in force.

The attested copy of the examination of a soldier taken before two justices, and given to him, is evidence under the mutiny act; but no other attested copy is evidence.

his oath, faith, &c. &c. [By this examination it appeared that *J. Farrer* was settled at *Clitheroe*.] Signed, the mark of *James Farrer*; sworn before us this 26th of *April* 1794, *W. Kitchiner, W. Addington*." The witness proved that the paper, excepting the name of the said *W. Addington*, standing by itself, was a true copy examined by himself of another paper-writing which the witness saw in the office of the said *W. Addington* in *Bow-street, London*; that he saw *W. Addington* subscribe his name to the paper-writing now produced, and received it from him on 26th *April* 1794; but that he did not know the person of the pauper, nor was he present at his original examination.—The sessions were of opinion, that the above paper ought not to be read in evidence under the mutiny act, and quashed the order of removal.—*L. Kenyon Ch. J.* This clause in the mutiny act is of modern introduction; and before that time, there is no pretence to say that such an examination as the one in question could be received in evidence. It is admitted, that it is contrary to the common rules of evidence. Whether it were or were not wise to introduce such a clause in the mutiny acts, which was not formerly contained in those statutes, it is unnecessary to enquire; but the question here is, whether this act of parliament, which makes an innovation on the law of evidence, should be carried beyond the express words of it? In my opinion, it ought to be construed strictly: for the examination, which is to be made evidence, is an *ex parte* examination, which the parish interested have no opportunity of knowing at the time it is taken; and of course they are deprived of all opportunity of cross-examining the party who makes it. The act directs, that under certain circumstances the party shall be examined respecting his settlement before two magistrates, and then it directs the magistrates to give an attested copy of such affidavit so made before them to the person making the same, to be by him delivered to his commanding officer, in order to be produced when required. If the act had stopped here, neither the original examination or the copy would have been evidence; but the act immediately adds, "which attested copy shall be at any time admitted in evidence, &c." There seems to be some absurdity in saying, that the inferior species of evidence, namely, the copy of that examination, shall be evidence when the superior evidence, the original examination, is not evidence. It is not necessary, however, to say here, whether or not the original is evidence; and it is sufficient for the determination

ation of this case to say, that the copy of the examination tendered in evidence at the sessions, is not the copy which the act directs to be received in evidence. The other judges delivered their opinions to the same effect. Order of sessions confirmed. *Durnf. and East*, 5 V. 704.

By 33 G. 3. c. 54. No member of any friendly society, established by virtue of this act, who shall reside or come to reside in any parish or place not having a legal settlement there, and who shall deliver to any churchwarden or overseer, a certificate under the hands of the steward, president, warden or treasurer of such society, or any two of them, attested by one witness, thereby acknowledging the person mentioned in such certificate to be a member of such society, shall, during the time that he shall continue to be a member, be removable from any place where such certificate hath been delivered as aforesaid, to the place of his last legal settlement, until he shall become actually chargeable, or be forced to ask relief for himself or his family, or some part thereof, and that then and not before, such person and his family, not having otherwise acquired a legal settlement there, may be removed to the place of his last legal settlement. *s. 17.*

Members of friendly societies, not removable till actually chargeable.

Rate.

IN the case of *K. v. T. Mast*, *H. 35 G. 3.* which was upon the appeal of *T. Mast* against a poor-rate for the parish of *St. Neots*, in which the appellant was rated for his millhouse, mills, and lands adjoining at 130 l. *per ann.* which was the full annual value thereof at that time; and that *W. Fowler*, as proprietor, occupied a dwelling-house, countinghouse, capital brewhouse, storehouse, and other appendages, merchant's yard, and about five acres of land adjoining, for which he was rated at 29 l. *per ann.* but the real annual value, in consequence of improvements, was 175 l.; he occupied besides, other lands and property in the parish, for which he was rated after the same manner. There was also one *Gorham*, who was rated in the same way. This rate, upon appeal, was confirmed at the *Huntingdon* sessions.—*Erskine*, in support of the order of sessions, said, the question intended by the parties to be discussed was, whether the occupier of a house, or of an estate, should be rated for its full value with all its improvements by the present possessor, or only according to

the price which he paid for it, without taking into the account the value of his improvements. Now the rating, according to the former mode, will be attended with many inconveniencies, as it will prevent not only speculations in building, but will also check improvements in the mode of cultivating land; many of which are adventures, undertaken at a considerable risk. At least, in questions of this kind, the justices have a discretion upon the subject; and this court is not bound to quash the present rate, unless it evidently appear to be unequal.—*L. Kenyon Ch. J.* (stopping *Fielding* and *Gibbs* contra) The assessment for the relief of the poor should be so contrived, that each inhabitant should contribute in proportion to his ability, which is to be ascertained by his possessions in the parish. Every inhabitant ought to be rated according to the present value of his estate, whether it continue of the same value as when he purchased it, or whether the estate be rendered more valuable by the improvements which he has made upon it. If a person choose to keep his property in money, and the fact of his possessing it be clearly proved, he is rateable for that: but if he prefer using it in the melioration of an estate or other property, he is rateable for the same in another shape. Suppose a person has a small piece of land in the heart of a town, which is only of small value, and he afterwards build on it, he must be rated to the poor according to its improved value with the building upon the land. In short, in whatever way the owner makes his estate more valuable, he is liable to contribute to the relief of the poor in proportion to that improved estate; and whatever be the proportion of rating in a parish, whether to the full value or otherwise, the rate must be equally made on all persons; there cannot be one medium of rating for one class of persons, and another for another class. Now here it appears, that the appellant was rated at the full annual value of every thing that he possessed, while other inhabitants were not rated at a third of their estates. With regard to the discretion of the justices, if indeed they had confirmed this rate generally, without disclosing to us the grounds on which they proceeded, we could not have quashed the rate, because the inequality does not appear upon the face of it: but they have disclosed those grounds; and on the case as stated, it is impossible not to say that they have made a mistake. This rate appears so defective throughout, that it cannot be amended.—*Asbburst* and *Grose* Js. of the same opinion. Order of sessions quashed. *Durnf. and East*, 6 V. 154.

In the case of *K. v. Woodward* and another, *M. 33 G. 3.* The trustees of a quaker meeting-house were rated to the poor for the meeting-house, the basement story of which is divided into a number of small rooms, one of which is occupied by a person called a door-keeper, whose business it is to attend the door when necessary, and keep the meeting-house clean, for which he has a small salary. The remaining apartments are either not occupied, or appropriated to the use of poor persons maintained by the quakers. The meeting-house is solely appropriated to religious and charitable purposes. The trustees, who are the persons rated, do not receive any rent for the same, but on the contrary, are subscribers to the fund for charitable donations. None of the benches in the meeting-house are let, nor is any pecuniary or other advantage made thereof. —The Court (a), without hearing any argument, said, that it was impossible to support this rate on the trustees who had no interest in the premises; and that though the meeting-house might hereafter be applied to any other purpose, there was no occupier of it at present, nor any profit made of it. *Durnf. and East*, 5 V. 79.

A quaker meeting-house, of which no profit is made, is not rateable.

In the case of *K. v. John Catt*, *T. 35 G. 3.* it was determined, that the master of a free-school, appointed by the minister and inhabitants of the parish under a charitable trust, whereby a house, garden, and other property were assigned for the use and habitation of the master and his family, freely without payment of any rent, income, gift, sum of money, or other allowance whatsoever for or out of the same, for the teaching of ten poor boys, of the inhabitants of the parish; is rateable to the poor for his occupation of the same. *Durnf. and East*, 6 V. 332.

A schoolmaster, occupying a house and garden belonging to the school, is rateable.

E. 34 G. 3. K. v. Parrot and others. The defendants are lessees of some coal-mines at *Exhall* in *Warwickshire*, and appealed to the sessions against a poor rate, which was there confirmed, subject to the opinion of this court on the following case. The appellants are in possession of the colliery for which they are rated, under a lease from Messrs. *Arnold* and *Farmer*, by which they were bound to work the colliery, and to pay a sixth part of the money produced by the sale of the coals got there, without any deduction on account of the expence of working; it was proved that upon an average of the last three years, the appellants paid 300*l.* 15*s.* 7½*d.* as a sixth part of the produce of the coals sold, and that they lost two farthings

The lessee of a coal-mine rateable, although he derive no profit from the mine.

(a) *L. Kenyon* was absent.

and half a farthing on every ton of coals sold; that the colliery always was and still is a losing adventure from the first of their taking it, and that they must have known it at the time they took it, and their inducement for taking it was, that when they had worked out the coal in this colliery, they would be able to get at coal of their own which was adjoining; and that this was a cheaper way of getting at it than any other which they could have adopted. —*L. Kenyon Ch. J.* It is said that this burden is to be laid where the benefit arises; but that rule cannot hold in a variety of instances that might be put. Suppose a landlord makes so hard a bargain with his tenant, that the latter derives no benefit from the farm; must not the tenant be rated to the poor? The landlord certainly is not liable. This case differs from that of *Rowlls v. Giles* in this respect, that was the case of lead mines, which are not rateable under the stat. of *Eliz.* and there the question was, whether or not the lessee were rateable for certain annual profits which he received without any risk on his part. Of the decision in that case it is not necessary for me to say any thing at present: I will form my opinion upon that question when it arises again. But here the property is rateable under the express words of 43 *Eliz. c. 2.* It appears in the case that there has been a clear profit of 1000 l. a year since the lease was granted; and the question is, whether the appellants, who are the occupiers of these mines, which it is admitted are rateable property, are or are not liable to be rated in respect of this property? Their objection is, that they have made an unprofitable bargain with the lessors; but we cannot examine into that; it being sufficient to make them liable, that they are the occupiers of rateable property. Order of sessions confirmed. *Durnf. and East, 5 V. 593.*

In what case the court will grant a mandamus to levy a rate.

In the case of *K. v. Benn and Church, H. 35 G. 3.* *Lagu* shewed cause against a rule for a *mandamus* to the defendants, who were justices for *Cumberland*, to grant warrants of distress to levy several sums of money on different persons who had refused to pay a poor rate for the township of *Whitehaven*. The answer given to the application was, that there should have been a previous summons by the magistrates to the respective persons charged with having refused to pay, which had not been issued in this case. — *Bearcroft*, in support of the rule, relied on the case of *K. v. Justices of Middlesex (a)*, where a *mandamus* was granted,

(a) 1 *Const's Bott.* 207. pl. 208.

notwith-

Notwithstanding this very objection was taken.—*L. Kenyon* Ch. J. I confess, I cannot subscribe my assent to the decision in the case cited. The payment of a poor rate, unless it be set aside, must be enforced; and if the magistrates will not issue a summons to the person who refuses to pay the rate, this court will grant a *mandamus* to compel them to do it: but a summons must precede a warrant of distress, which is in the nature of an execution. On the summons, the party may shew a sufficient reason to the magistrates why a warrant of distress should not issue; as for instance, that he has already paid the assessment to one of the parish officers who has not accounted for it. But it is an invariable maxim in our law that no man shall be punished before he has had an opportunity of being heard: whereas if a warrant of distress were to be issued, without any previous summons, the party would have no opportunity of shewing cause why the execution should not issue against him. But the next day the court granted a rule for a *mandamus* to the magistrates “to receive such informations and complaints as shall be laid before them against persons refusing to pay the sums assessed upon them for the relief of the poor of the township of *Whitehaven*, and to proceed thereupon to levy the same.” *Durnf. and East*, 6 V. 198.

Account.

H. 35 G. 3. *K. v. Goodcheap. T. Withall* appealed to the *Cambridgeshire* sessions against the defendant's accounts as overseer of the parish of *St. Michael* in *Longstanton*; the sessions amended the account, and stated the following case. At *Easter* 1788, *Goodcheap* was appointed an overseer, and at *Easter* 1789, 90, and 91, he was again appointed one of the overseers of the parish of *St. Michael* in *Longstanton*, and continued in the office those four successive years. At *Easter* 1792, *W. Elwood* and *W. Stanley* were appointed overseers, and *Stanley* becoming insolvent about three weeks after his appointment, *Goodcheap* was again appointed in his room for the remainder of the year ending at *Easter* 1793. *Stanley* while he was overseer neither paid any money, nor made any rate. During the four first years ending at *Easter* 1792, *Goodcheap* did not make out any account as overseer, or at any time after the expiration of any of those years, pursuant to

Overseers must account yearly, although they be appointed for several years successively.

the statute. At the expiration of the last year ending at *Easter* 1793, he made out one general account as overseer for the four successive years ending at *Easter* 1792, and for that part of the year in which he served the office ending at *Easter* 1793; which account was allowed by two justices, and upon that allowance there appeared a balance of 9l. 1s. 0d. due to *Goodcheap*. An appeal was lodged at the next sessions, being at *Midsummer* 1793, and was adjourned till *Michaelmas* following. During the four first years, *Goodcheap* expended 232l. 0s. 9½d. for the use of the poor, namely, the first year 84l. 18s. 11½d.; the second year 48l. 19s. 1½d.; the third year 64l. 13s. 4d.; and the fourth year 33l. 9s. 4½d.; and was not reimbursed the same or any part thereof. Four rates were made previous to *Easter* 1792, three of which were quashed, and one confirmed upon appeals, but that was omitted to be collected by *Goodcheap* on account of the rate being informal. After he was appointed an overseer in the place of *Stanley*, two rates were made and collected by him, (*viz.*) one at 8s. and the other at 5s. in the pound, out of which he reimbursed himself the money he expended for the four years ending at *Easter* 1792, and the remainder of the year ending at *Easter* 1793, by charging the same in the account appealed to. The appellant only became an occupier in *St. Michael* in *Longstanton* in *June* 1792, and paid the rate of 5s. in the pound, and was not assessed to the rate of 8s. If *Goodcheap* is entitled to reimburse himself the sums expended in the four years ending at *Easter* 1792, there is due to him 5l. 2s. 11½d.: if not, there will be a balance due from him, after allowing him the expences of the year ending at *Easter* 1793, of 219l. 0s. 4d. The sessions determined, that he could not legally insert in his account the expences of the four years ending at *Easter* 1792, but only the expences of the time when he was in office in the year ending at *Easter* 1793, and ordered the account to be amended accordingly.—*L. Kenyon* Ch. J. When the case was first brought before the court, we thought it too clear for discussion, and wished that the parish would agree to settle the account, as it would otherwise bear hard upon the defendant. For as to the question of law, it is impossible to raise a doubt about it; the overseers ought not to include in their accounts charges for several years, but all the items of the accounts should be confined to that year when the accounts are directed by the act to be passed; otherwise, as the inhabitants of a parish are a fluctuating body, the present inhabitants would be

be burdened with the expences of their predeceffors. And as to the appellant not being permitted to object to the first rate; the objection is not to the rates, but to the account in which the rates are contained. Order of sessions confirmed. *Durnf. and East*, 6 V. 159.

Penalty.

BY 33 G. 3. c. 55. it is provided, that two justices at any special or petty sessions, upon complaint upon oath of any neglect of duty, or disobedience of any lawful warrant or order of any justice, by any overseer of the poor or other parish officer, (such person having been duly summoned to appear to answer such charge,) may impose, upon conviction, any reasonable fine not exceeding 40 s. upon such overseer or other parish officer, as a punishment for such disobedience or neglect of duty, and if not paid, may by their warrant levy the same by distress and sale of the goods of such offender, rendering to him the overplus (if any) after deducting such fine and the charges of such distress and sale; to be applied to the poor of the parish or place where such offender shall reside at the discretion of such justices: and for want of such distress, such offender shall be committed to the house of correction for any time not exceeding ten days. *f. 1.*

Punishment for neglect of duty.

If any person shall think himself aggrieved, he may appeal to the next sessions, upon giving ten days notice thereof. *id.*

Appeal.

And no person acting under any such warrant of distress, shall be deemed a trespasser *ab initio*, by reason of any irregularity in such warrant or proceedings thereupon. *f. 2.*

Post.

BY 35 G. 3. c. 53. After 5th May 1795, no letter or packet shall be exempted from postage, directed by, or sent to any member of parliament, if the same shall exceed one ounce in weight. *f. 1.*

Franked letters not to exceed one ounce.

And no such letter or packet directed by any such member, shall be exempted from postage, unless such member

The member to be within 20 miles of the place where the

Letter is put into the office.

whose name shall be indorsed thereon, pursuant to the laws now in force, shall actually be in the post-town into the post-office of which every such letter or packet shall be put, or within the limits of the delivery of letters for such post-town, or within 20 miles of such post-town, on the day, or the day before, on which the same shall be put into the office. *f. 2.*

Number in one day.

And no such member shall be allowed to send more than 10, nor receive more than 15 letters free from postage in one day. *f. 3.*

Letters exceeding the number.

And when the number, not above one ounce each, sent or received by any such member in one day, shall exceed the number herein allowed, and the postage on any of them shall differ; then such letter or packet as shall be chargeable with the highest postage, shall be included in the number exempted, in preference to those of a lower postage, and the remainder shall be chargeable as other letters. *f. 4.*

Persons authorized officially to send and receive letters.

Provided, that the several persons who, by virtue of any act of parliament, are authorized in right of their respective offices to send and receive letters free from postage, shall, during their continuance in such offices, send and receive letters free from postage as before. *f. 5.*

Proceedings in parliament, news-papers, &c.

Provided always, that nothing herein shall extend to votes or proceedings in parliament, or news-papers, but the same shall pass free from postage as before. *f. 6.*

Patterns and samples.

But patterns and samples of goods inclosed in any cover open at the sides, and without any letter or writing therein, and not exceeding one ounce, shall not be charged with a higher postage than a single letter. *f. 9.*

Single letters from non-commissioned officers, seamen, or privates in the navy or army.

And no single letter sent by the post from any non-commissioned officer, seaman, or private of the navy, army, militia, fencibles, artillery, or marines, shall, while employed in his majesty's service, be chargeable with more than 1 d. which shall be paid at putting the same into the post office; provided, that there be written upon the same, in the hand-writing of the commanding officer for the time being, his name, and the ship, corps, regiment, or detachment to which such person belongs. *f. 7.*

Or to such persons.

And no single letter sent to any such person, upon his own private concerns only, shall be charged with more than 1 d. postage, to be paid upon delivery; provided the same be directed to such person, and specify the ship, regiment, troop, corps, company or detachment to which he belongs. And the deputy postmaster shall not deliver such letter to any other, except the person to whom the same shall

shall be directed, or person appointed to receive the same by the commanding officer. *f. 8.*

And by 34 G. 3. c. 17. There shall be paid 1 d. additional postage for letters sent by the penny post from any place without to any place within the cities of *London* and *Westminster*, and *Southwark*, or the suburbs thereof. Penny post.

f. 1.

And the postage may be paid or not on putting in such letter, at the option of the person putting the same in.

f. 2.

Receipts.

BY 35 G. 3. c. 55. From 5th July 1795, the following additional stamp duties are imposed: For every piece of vellum or parchment, or sheet or piece of paper, upon which any receipt, discharge, or acquittance, given for or upon the payment of money, shall be written or printed, amounting to 100 l. and under 500 l., 6 d.; and amounting to 500 l. or upwards, 1 s. Which duties shall be paid, over and above all other duties, by the person by whom, or on whose behalf such receipt shall be required; and in default of payment, may be levied against the person by whom the same is hereby made payable, his executors, administrators, or assigns. *f. 1. 5.* Duty.

And the provisions of 31 G. 3. c. 25. which are hereby altered, shall cease, except for recovering arrears. *f. 4.* 31 G. 3. c. 25. in part repealed.

And all receipts exempted by the said act of 31 G. 3. c. 25. shall not be liable to this duty. *f. 2.* Receipts exempted.

And all receipts in full shall be charged with a stamp duty of 2 s. *f. 6.* Receipts in full.

And every note, memorandum, or writing whatever, given upon payment of money, which shall contain or express, or in any manner signify or denote any acknowledgment of any part of any debt, claim, account, or demand being paid, settled, received, accounted for, balanced, discharged, released, or satisfied, whether signed or not, shall be deemed and taken to be a receipt, and shall be liable to a stamp duty in respect of the sum actually paid. *f. 7.* What shall be deemed receipts.

And if any person shall write or sign any receipt liable to any stamp duty, without being first duly stamped; or with

with a stamp of a lower value than is directed by law; he shall forfeit 10 l. if the sum paid, or expressed therein shall not amount to 100 l. and 20 l. if the same amount to 100 l. or upwards. *s. 8.*

Inserting a less sum than paid, or dividing the same.

And if any person shall give any receipt, or writing acknowledging the payment of money, in which a less sum shall be expressed than the sum actually paid, or received; or shall separate or divide the sum actually paid or received into divers sums, with intent to evade the duties; or with like intent shall write off any part of any debt, or demand; or shall be guilty of, or concerned in any contrivance with intent to defraud his majesty, he shall forfeit 50 l. *s. 9.*

To be stamped before written upon.

And all vellum, parchment, or paper liable to any stamp duty, shall be stamped before the same be written or printed upon; or may be brought to the commissioners of the stamp duties, or their officers, to be stamped, within 14 days after such receipt shall be given or bear date, and may be stamped, on payment of 5 l. over and above the duty; and if brought after 14 days and within one calendar month, on payment of 10 l. over and above the duty. *s. 10, 11.*

Register.

BY 34 G. 3. c. 11. The duties upon burials, marriages, births, and christenings, imposed by 23 G. 3. c. 67. and 25 G. 3. c. 75. are repealed.

Rivers and navigation.

Vessel's exceeding 13 tons used on inland navigations to be registered.

BY 35 G. 3. c. 58. From the 15th June 1795, [which by 35 G. 3. c. 112, is extended to 1st September 1795.] (a) every lighter, barge, boat, wherry, or other vessel exceeding

(a) This act of 35 G. 3. c. 58. is only in force till 5th April 1798, and from thence to the end of the then next session of parliament.

Rivers and navigation.

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the burthen of 13 tons, which shall be worked, rowed, or navigated upon any river, canal, or other inland water or navigation in *Great Britain*, shall be registered as herein aftermentioned, by the person claiming the property therein, who shall obtain a certificate of such registry, from the clerk of the peace or town clerk, or their deputies, respectively, of the county or place to which such vessel belongs; in which shall be truly set forth whether such vessel be a lighter, barge, boat, wherry, or what other vessel, and also the name and place of abode of the master or commander, together with the number and capacities of every person then and usually employed in working the same, and also the burthen thereof; and to the best of his belief, shall give an account of the line and extent of the navigation in which such vessel hath been usually navigated, and where situated; and the form of such certificate shall be as follows, (viz.)

IN pursuance of an act, passed in the 35th year of the reign of king George the third, intituled, An act [here set forth the title of the act.] A. B. having this day declared to me C. P. clerk of the peace for the C. of D. that A. M. is at present master of the ——— and that the said ——— admeasures ——— tons, and no more ——— and is at present worked by the number of persons in the several capacities undermentioned; (viz.)

Certificate of registry.

Number of men employed on board.	Capacities on board.

and that the line and extent of the navigation in which the said ——— has been usually navigated is from ——— to ——— extending ——— miles, or thereabouts; I do hereby certify, that the said ——— is duly registered at my office, and described under the particulars herein set forth. Given under my hand, at ——— this ——— day of ——— in the year of our Lord ———.

C. P.
For

For which registry and certificate shall be paid 2s. 6d. and no more. *f. 1.*

Particulars to be verified on oath if required.

And every particular herein before required, shall be inserted in such register, and certificate to be granted thereupon, and shall be verified on the oath of the master or commander, previous to the registry thereof, if required by the admiralty, (such oath to be administered by the chief magistrate of any city or town, or any neighbouring justice,) for which 1s. shall be paid, and no more. *f. 2.*

Surveyors to be appointed, and masters to produce certificates of registry to them.

Masters to sign accounts of particulars.

And the admiralty are to appoint surveyors of such vessels; and every master or commander thereof, shall produce a certificate of the registry thereof upon demand, to such surveyor, who may admeasure every such vessel; and in the presence of such master and commander, shall set down in writing an account of such particulars as are required by this act, and such master or commander shall sign such account unless he dissent therefrom, in which case he shall set down in writing his reasons for such dissent at the foot of such account, and sign the same accordingly. *f. 3.*

Penalty on neglect of registering vessels, &c.

And if any person herein required to cause any such vessel to be registered, shall neglect or refuse to register the same, and demand a certificate within the time herein limited; or shall wilfully deliver to any person authorized to make such registry a false description of any of the particulars hereby required to be contained in such register and certificate thereof; or shall wilfully assault or obstruct any surveying officer or his assistant in surveying, examining, or admeasuring any such vessel, or in going on board for that purpose; or if any person herein before authorized to make such registry and grant such certificate, or to survey, examine, or admeasure and take an account of any such vessel, shall knowingly make any false register, or grant any false certificate, or give a false account in regard to any particulars required by this act, or shall refuse or wilfully neglect to grant a certificate, (the same being demanded as herein directed,) he shall, on conviction in the courts at *Westminster*, forfeit 20l. *f. 4.*

Vessels used without registry forfeited, and master to forfeit 10l.

And if any such vessel as aforesaid, shall be worked, rowed, or navigated upon any river, canal, or other inland navigation, without being registered and a certificate thereof duly obtained as aforesaid, the same shall be forfeited, and may be seized by any such surveying officer; and the master or commander shall, for every day on which the same shall

shall be worked, rowed, or navigated as aforesaid contrary to this act, forfeit 10l. *f. 5.*

And the owner or master of every such vessel shall cause the number of tons, the name of the owner, and the place to which the same belongs, to be painted in large white capital figures on a black ground, four inches at least in length and of a proportionate breadth, on the outside of the stern, higher than the place to which the same shall sink into the water when fully laden, and shall continue the same thereupon so long as such vessel shall be used; and every owner, master, or commander, who shall navigate such vessel as aforesaid without having such figures thereon, or wilfully alter, erase, deface, or destroy the same or any part thereof, shall forfeit not exceeding 20l. nor less than 5l. for every such offence. *f. 6.*

Burthen and name of the owner to be put upon vessels.

Penalty for neglect.

And all such vessels which shall begin to be kept after 15th *June* 1795, shall be registered and a certificate thereof shall be obtained as aforesaid, and shall be admeasured and marked before the same shall be navigated, as before directed; on pain of forfeiting the respective penalties herein before mentioned with respect to vessels navigated before 15th *June* 1795. *f. 7.*

Vessels begun to be worked after 15th *June* to be registered, &c.

And every person authorized as aforesaid, shall cause such register to be entered in a book to be provided for that purpose, and shall before 15th *August* 1795 transmit extracts of such registers to the admiralty, (according to a form specified in the act,) on the penalty of 100l. *f. 8.*

Registers to be entered in a book.

And such vessels shall be deemed to belong to the county or place in which such river, canal, or inland navigation whereon such vessel shall be worked, shall run or be; or the master or commander shall usually reside. *f. 9.*

To what place vessels shall be deemed to belong.

And every person who shall take a false oath, shall suffer the pains and penalties of committing wilful and corrupt perjury; and if any person shall counterfeit, erase, alter, or falsify any such certificate, or knowingly make use thereof, he shall forfeit 100l. *f. 10.*

Falsely swearing or counterfeiting certificates, &c.

Provided, that nothing herein shall extend to vessels of the royal family, or which shall be used solely for pleasure. *f. 11.*

Not to extend to the royal family, or vessels for pleasure.

All penalties and forfeitures (except as herein otherwise directed) may be sued for, recovered, and disposed of in like manner, and by such ways and means, as penalties inflicted by the laws of excise; and the officer concerned in such seizures or prosecutions, shall have the like share as in case of seizures for unlawful importation. *f. 12.*

Penalties how to be recovered.

Seamen.

**Petty officers,
seamen, &c.
may allot a part
of their pay for
the maintenance
of their families.**

BY 35 G. 3. c. 28. After 1st May 1795, every petty officer, and seaman, or landman, non-commissioned officer of marines, and marine, [and by 35 G. 3. c. 95. the same is extended to boatswains, gunners, and carpenters,] serving or entering on board any vessel of his majesty, may allot a certain part of his monthly pay for the maintenance of his wife and children, or mother: (*viz.*) every petty officer and non-commissioned officer of marines, boatswain, gunner, and carpenter, one half of their pay; every able-bodied seaman 5 d. *per* day; every ordinary seaman or landman 4 d. *per* day; and every marine 3 d. *per* day; which shall be paid every 28 days, as hereinafter prescribed. *f. I.*

Volunteers, at the time of entering, may allot a part of their pay, to be paid as herein specified.

And if any seaman or landman shall voluntarily enter himself with any regulating officer, and shall at the same time declare his name and place of abode, and that he is married, and the name of his wife, and her place of residence, and if he has children, how many, and how many are boys; and if he has a mother then living, the place of her residence; and that he is willing to allot a part of his wages for their support; then, in case his wife or mother reside in *London*, the same shall be paid by the treasurer of the navy; if at *Portsmouth*, *Plymouth*, or *Chatham*, or within five miles thereof respectively, by the clerk of the cheque at those places; elsewhere, by the receiver-general of the land-tax of the county or city, or collector of the customs or excise nearest the residence of such wife or mother. And such regulating officer shall make out three declarations of allotment, and three orders of payment, to be triplicates of each other, and shall be in the following form:

Regulating officer to make out three declarations of allotment of pay, and order of payment.
Form.

No. I.

I A. B. { Petty officer,
Seaman,
Landman,
Non commissioned
officer of marines,
Marine, } *do hereby declare*

that I { having a { wife } and one child a boy
and — children — of whom are boys }
living at { having a { mother — — — — — }
in the county of

of — entered this day to serve in his
 majesty's navy,
 now serving on board his ma-
 jesty's ship } have allotted

— per day, out of my wages or pay, for the maintenance
 of my { wife { and child }
 { and children } } and I do hereby direct you to
 { mother - - }

pay or cause to be paid to C. B. my { wife } living in
 { mother } the place and county aforesaid, at the end of every twenty-eight
 days from the date hereof, the sum of — being at the
 rate of — per day out of the wages or pay to grow due to
 me as a — in his majesty's navy, a duplicate hereof hav-
 ing already been transmitted to you, signed by three of the com-
 missioners of his majesty's navy, upon her producing a certificate,
 under the hands of the minister and the churchwardens or
 churchwarden, or the elders or elder, of the parish where
 she resides, that, to the best of their knowledge, the said
 C. D. is my { wife } or, in the event of the death of
 { mother } my wife, pay the sum aforesaid to the person who shall,
 by the minister and churchwardens or churchwarden, or elders
 or elder, of the parish where my said wife resides, be appoint-
 ed to receive the same, for the maintenance of my { child }
 { children }

Dated { at — }
 { on board his majesty's ship — } this — day
 of —.

Signed A. B.

Witness (if on shore)

Thos Bowling,

Lieut. in his majesty's navy.

(if on board) D. E. Captain.

F. G. Lieut. and Signing

Officer.

To the Treasurer of his Majesty's Navy.

To the Receiver General of the Land-tax of —

To the Collector of the Customs of the port of —

To the Collector of the Excise at —

To the Clerk of the Cheque at —

(Signed)

H. I.

K. L.

M. N.

} Commissioners of his
 Majesty's Navy.

which being numbered and dated, and the blanks filled up,
 such seaman or landman shall sign the same, and such re-
 gulating officer shall also sign as a witness: and if such
 wife

wife or mother shall then attend in person, such officer shall deliver to her one of the triplicate orders, and shall send the other two to the commissioners of the navy; but if such wife or mother shall not attend, such officer shall send all the said triplicates to the said commissioners, and shall specify and mention, opposite to the name of every man so entered, whether he has allotted any part of his pay as aforesaid, and to what amount, together with the date of such order. *f. 2.*

Petty officer, seaman, &c. may allot a part of his pay in like manner.

And as often as the commander of any such vessel shall read over the muster of his ship's company, if any such petty officer or person aforesaid shall declare, by word of mouth, or deliver in writing, the name and place of abode of his wife, and number of his children, if he have any, and how many are boys, or that he has a mother living, and the place of her residence, and shall desire that a part of his wages may be paid for their support, the same shall be paid in like manner as aforesaid. *f. 3.*

Declarations and orders to be examined with lists by the navy board.

And the commissioners of the navy shall examine such declarations and orders with the lists transmitted by such regulating officer, or commanding officer of any such vessel, and if found right, shall be filled up and signed by three commissioners, specifying the date; and they shall transmit one of the said declarations and orders to such wife or mother, and another to such receiver-general, collector of the customs or excise, or clerk of the cheque, to whom such order shall be directed, and the third shall be delivered to the treasurer of the navy. *f. 4.*

After 28 days from the dates, persons to whom declarations and orders are addressed, to examine the same, and also certificates of ministers, &c.

And at the end of 28 days or more after the date of such declaration and order, the same, together with such certificate as is mentioned therein from the minister and churchwarden of the parish where such wife or mother shall reside, shall be presented to the treasurer of the navy, or other public officer to whom the same is addressed, who shall examine into the truth thereof, (upon the oath of such wife or mother, if necessary, which oath such officer is authorized to administer,) and upon his being satisfied, he shall immediately pay to such wife or mother the sum so allotted, without fee or deduction, taking her receipt for the same, and shall sign his name as witness thereto, and shall mark such receipt with the same number as that of her husband's declaration and order, and shall also mark thereon the sum paid, and the date, and the time from whence and up to what time the same so became due, and shall deliver back such declaration and order to such wife or mother; and shall also mark such triplicate in like manner; and at the end of every twenty-eight days after-

And to pay the sum allotted gratis.

wards, upon similar application, a like payment shall be made in the same manner. *f. 5.*

And if the wife of any such person shall die and leave a child or children under 14, the minister and churchwarden where such wife resided at the time of her death, shall certify to the commissioners of the navy the day of her death; and if children are left, the ages of those under 14, as near as they can, and how many are boys; and shall also certify their intention of appointing a fit person, resident within such parish, to receive that part of the father's wages allotted for the maintenance of his children, in case of his wife's death; and along with such certificate shall also transmit the triplicate of the declaration and order which was in her possession at the time of her death; and if the commissioners of the navy are satisfied of the truth thereof, and that the father is still alive, and in the service of his majesty, they shall make out three certificates and orders, which shall be triplicates of each other, in the following form:

No. I. *WE*, — the minister, and — church-wardens or churchwarden of the parish of — in the county of —, do hereby certify and declare, That — wife of

— a { Petty officer,
Seaman,
Landman,
Non-commissioned
officer of marines,
Marine } serving in his majesty's

navy, died on the — day of — and was buried in the said parish, where she had resided — { months } previous to her

death. And we further certify and declare that there { is } { are }

living in this parish { a child } { children } under the age of fourteen years, of the aforesaid — late the husband of the aforesaid — deceased, { who is a boy, or girl } and we have

appointed — of — in this parish, to receive such allowance as the aforesaid — the father has allotted out of his wages or pay due or to become due for his service in the navy,

for the maintenance and support of his said { child } { children } in the event of the death of his wife: And we request that you will give the necessary order, that the wages or pay of the father

Wife dying, and leaving children under 14.

Three certificates and orders to be made out.

Form.

Seamen.

ther so allowed as aforesaid shall and may in future be paid to the said ——— for the maintenance and support of the { child } of the said ——— under our inspection and direction. Dated at ——— this ——— day of ———.

Signed A. B. Minister.

C. D. } Churchwardens.
E. F. }

To the Commissioners of
his Majesty's Navy.

WE, ——— and ——— two of his majesty's justices of the peace in and for the county of ———, do hereby certify and attest to the commissioners of his majesty's navy, That the facts set forth in the above certificate are true, to the best of our knowledge and belief, and that the said ——— named therein is a fit and proper person to receive the wages allotted by the above ——— for the maintenance and support of his { child } in the event of the death of his wife; and we do hereby approve of him in that respect. Dated at ——— this ——— day of ———

Signed G. H. } Justices of the peace for
I. K. } the county of ———

London, the ——— day of ———

WE approve of the above, and allow the same, and order the payment of that part of the wages allotted by the above-mentioned ——— for the maintenance and support of his { child } in the event of the death of his wife, to be paid to the above-named ——— for that purpose.

Signed L. M. } Commissioners of
N. O. } the Navy.
P. Q. }

To { the Treasurer of the Navy.
the Receiver General of the Land-tax of ———
the Collector of the Customs at the port of ———
the Collector of the Excise at ———
the Clerk of the Cheque at ———

To be sent to
the minister,
&c. and attested
by two justices.

And shall send the same to the minister or churchwarden of the parish where the wife died, who shall fill up the blanks and sign the same, and having procured two justices of the county wherein such parish lies to attest the same, shall return the said three triplicates to the commissioners of the navy, who shall, on the receipt thereof, examine the same,
and

and, if found right, shall mark each of the triplicates with the same number with which the original declaration and order was numbered; and three of the said commissioners shall date and sign their allowance thereof, and shall address each of them to the same publick officer to whom the original was addressed, who shall transmit one of them to the person so appointed by such minister and churchwarden, and approved by the justices, together with the original declaration and order which was sent to them as aforesaid; and another thereof shall be transmitted to the treasurer of the navy, or other publick officer appointed to pay the same, as the case may be; and the third shall be delivered to the treasurer of the navy. *f. 6.*

And at the end of 28 days or more, from the last payment made to the wife who so died as aforesaid, or from the date of the original declaration and order in case she has received no payment thereon, the person so appointed may apply to such publick officer to whom the same is addressed, for payment of what may be due thereon, and shall then produce the original declaration and order, and the certificate of the minister and churchwarden, and attestation by the justices, and allowance by three commissioners as aforesaid; and shall also deliver a certificate from the minister and churchwarden, specifying that there is a child, or the number of children under 14 then living in their parish, distinguishing how many are boys, and their ages as near as they can, and shall in all things proceed in the same manner as before directed; and such payment shall be continued so long as all or any one of such children shall remain under 14, or the father shall live and continue in the king's service; except as hereinafter excepted, where no demand shall have been made within six months. *f. 7.*

And if any such seaman, landman, or marine shall be promoted, he may increase the allowance out of his pay to his wife, children, or mother, to the amount allowed to his rank as aforesaid; and the same rules and regulations shall be observed as before is directed and prescribed. *f. 8.*

And all such payments as aforesaid shall be by even monthly payments of 28 days, and not for any part of a month, except in the event of the death of such wife, or death or discharge of the person serving, or his absenting himself, in which case the same shall be paid up to the day of such death or discharge, or his quitting the service. *f. 9.*

Persons appointed to receive pay for children, may apply for the same, producing certain papers.

Seamen, &c. on promotion may increase their pay to their families.

Payments to be made for 28 days at a time, except in case of death, &c.

O

And

Orders to be irrevocable, except in certain cases.

Wives, &c. to appear personally, unless disabled.

Wife dying, or order is void, if demand is not made in six months.

Regulating officers, &c. neglecting to transmit lists.

Persons to whom orders are addressed, not having money in hand.

Delaying payment, or taking fees.

Over-payments to be made good by defaulters.

Orders for payment to wives may be revoked, on certificates from ministers, &c.

And every such order so granted shall be irrevocable, and shall continue and remain in force during the whole time such person shall be entitled to wages, except revoked, or shall become void in manner hereinafter mentioned. *f. 10.*

And the wife or mother, or person appointed to receive such pay, shall appear personally to receive the same, unless disabled by bodily infirmity, the same to be certified by the minister and churchwarden where such person resides, or by the physician, surgeon, or apothecary attending her or him, in which case, the same shall be paid to her or his order in writing, upon producing the original order. *f. 11.*

And where no demand shall be made by virtue of any such original order for six calendar months after the date when signed by the commissioners of the navy, in the event of the death of the wife, the same shall be void. *f. 12.*

And if any such regulating officer, or commander of any such vessel, shall unnecessarily neglect or delay to transmit to the navy-board, such lists as aforesaid, or to transmit such declarations and orders as aforesaid, he shall forfeit 50 l. to be recovered as penalties against the laws of customs or excise, and to be paid to the person suing or prosecuting for the same. *f. 13.*

And if the person to whom any such order shall be addressed, shall not have publick money in his hand sufficient to answer the same, and shall refuse payment, he shall appoint a day, within 14 days, for the payment thereof. And if complaint shall be made to the said commissioners, of any unnecessary delay in the payment of such allowance as aforesaid; or that any person employed herein hath taken any fee or reward, three commissioners may fine any such offender not exceeding 50 l. to be recovered and applied in manner aforesaid. *f. 14.*

And if by any neglect or delay in making any such returns as aforesaid, any over-payment shall be made to any such wife, mother, or children, the same shall be deducted from the salary or pay of the officer or person making such default, and shall be applied in replacing the sum so overpaid. *f. 15.*

And if any person who shall have allotted a part of his wages as aforesaid, shall be desirous to revoke the same, he may do so upon his declaring such his intention, and actually revoking the same by a writing under his hand addressed to the commissioners of the navy, accompanied with a certificate from the minister and churchwarden of the

the parish where his wife shall reside, declaring, that, in their opinion, such person has just and reasonable cause for such revocation; and if such commissioners shall be satisfied thereof, they shall give notice to the treasurer of the navy, or other publick officer to whom the order of payment was addressed, directing him to stop all future payment thereon, until such person shall make another order of payment in manner aforesaid. *f. 16.*

And if any such wife as aforesaid shall desert, or otherwise neglect and leave unsupported and maintained any such child under 14, and who shall for one month become chargeable to any parish, the minister and churchwarden of such parish may certify the fact to the commissioners of the navy, and also their intention to appoint a proper person to receive, and apply to the use of such child, the pay so allowed for the support of her and such child; and if such commissioners be satisfied therewith, they shall proceed to appoint a proper person to receive such pay in the same manner as if such wife had died. *f. 17.*

If wives desert their children, on a certificate from the minister, &c. other persons may be appointed.

And as soon as it shall appear to the commissioners of the navy that any person who has allotted a part of his pay as aforesaid, is dead, or has quitted the king's service, they shall communicate the same to such publick officer as aforesaid, by whom such allotment of wages was directed to be paid, directing him to stop all future payments; and such publick officer shall, within two days after the receipt thereof, acknowledge such receipt by letter to the said commissioners, on the penalty of 20 l. to be levied as aforesaid. *f. 18.*

Navy-board to communicate the death of persons who have allotted part of their pay to the person directed to pay it, on penalty of 20 l.

And as soon as it shall come to the knowledge of the minister or any churchwarden of any parish, that the wife or mother of any person receiving such allowance as aforesaid is dead, they or one of them shall immediately give notice thereof by letter to the commissioners of the navy, or other publick officer from whom she received such allowance, who shall not make any further payment until he receive further directions from the commissioners of the navy thereon. *f. 19.*

Minister, &c. to give notice of the death of wives or mothers receiving pay, to the navy-board,

And all allotments of wages to be paid in pursuance of this act, shall be fully paid, without deduction, although a part thereof be in fractions of the smallest denomination; and every person withholding any part thereof under any pretence whatsoever, shall forfeit 20 l. to be recovered and applied in manner aforesaid. *f. 25.*

Payments to be made without deduction, on penalty of 20 l.

And all letters or packets sent by the cashier of the navy, or forwarded by him in the execution of this act,

Letters to be free of postage.

Penalty of sending other things under such covers.

Forging orders for payment, &c.

Seamen, &c. riotously assembled to prevent loading vessels, &c.

Or to prevent carpenters and others from working.

Offending a second time.

Not to extend to his majesty.

Wilfully setting fire to ships,

shall be under covers, with the words PURSUANT TO ACT OF PARLIAMENT, THIRTY-FIFTH GEORGE THE THIRD, printed thereon, and he shall write his name under the same. And if he shall send under any such cover any writing, paper, or parcel other than those relating to the execution of this act, he shall forfeit 100 l. to be recovered and applied in manner aforesaid. *f.* 26, 27.

And if any person shall make, forge, or counterfeit any such declaration or order, or any certificate or receipt herein-before described or mentioned, or publish the same in order to enable any person to obtain any such wages so allotted as aforesaid, he shall be guilty of felony without benefit of clergy. *f.* 30.

By 33 G. 3. c. 67. (a) If any seamen, keelmen, casters, ship carpenters, or other persons, riotously assembled together to the number of three or more, shall unlawfully and with force prevent, hinder, or obstruct the loading, sailing, or navigating of any ship, keel, or other vessel, or board the same with that intent; or if any such seaman or other person as aforesaid shall unlawfully and with force prevent, hinder, or obstruct any seaman, keelman, caster, or ship carpenter from working at his lawful trade or occupation, or wilfully and maliciously assault, beat, or wound, or commit any bodily violence or hurt to any such person, with intent to deter, prevent, hinder, or obstruct him from working at, or exercising his lawful trade; every such person shall, on conviction, upon indictment at the assizes or quarter sessions, be committed to the common gaol without bail, (or to the house of correction, there to be kept to hard labour,) for any time not exceeding twelve nor less than six calendar months. *f.* 1, 2.

And if any such person so convicted as aforesaid, shall afterwards offend again in like manner, and shall be convicted thereof, by indictment at the assizes or quarter sessions; he shall, for such second and every subsequent offence, be deemed guilty of felony, and be transported for any time not exceeding fourteen nor less than seven years. *f.* 3.

But none of the penalties or punishments herein inflicted shall extend to matters done in the service, or under the authority of his majesty. *f.* 4.

And if any such seaman, or other person, shall wilfully and maliciously burn or set fire to any ship, keel, or other

(a) This act is to continue in force only till 24th June 1800, and to the end of the then next session of parliament.

vessel, he shall, on conviction at the assizes, be adjudged guilty of felony without benefit of clergy. *f. 5.*

And if any such seaman, or other person, shall wilfully and maliciously destroy or damage any ship, keel, or other vessel, (otherwise than by fire,) he shall, on conviction at the assizes or quarter sessions, be adjudged guilty of felony, and be transported for any term not exceeding fourteen nor less than seven years. *f. 6.*

or damaging
them by other
means.

Offences committed on the high seas may be tried in any session of oyer and terminer, &c. within the jurisdiction of the admiralty. *f. 7.*

Offences com-
mitted on the
high seas.

Provided always, that all prosecutions by virtue of this act, shall be commenced within twelve calendar months after the offence is committed. *f. 8.*

Prosecutions to
be commenced
within a year.

Servants.

BY 31 G. 3. c. 5. *f. 1.* A further duty of 10 l. *per cent.* Duty.
was imposed upon the gross amount of the former duties, which was to cease when certain debts were discharged occasioned by an armament against *Spain*. But by 33 G. 3. c. 28. *f. 24.* the said duty is made perpetual.

Upon the appeal of *J. Compton Esq.* against a surcharge for a gardener, it appeared, that this appellant occupies his own mansion-house, gardens, stables, and other out houses, with a farm adjoining, all situate at *Bisfern* near *Southampton*: that he hired one *Bead* as a day labourer at 7 s. *per week*, to look after and work in his gardens, and there are also two other men who occasionally work in the said gardens as day labourers; *Bead* sometimes does work in the husbandry business, but is generally employed in the said gardens: he lives with his family in a cottage he rents of one *Wilkins*, and does not eat or drink in the appellant's house. On appeal, it appeared to the commissioners, that as the appellant occupies a pleasure and kitchen garden, hot houses, &c. he must be supposed to employ, and have occasion for a gardener; and the judges were of the same opinion. 22d May 1794.

Gardener hired
by the day.

Soldiers.

To pay 10d. *per*
day for diet and
small beer,

and 2 d. *per* day
for articles be-
fore furnished
gratis.

For horses quar-
tered 10½ d. *per*
day.

Part of the mu-
tiny act re-
pealed.

Regulations
when on a
march.

BY 35 G. 3. c. 64. After 19th May 1795, and during the continuance of this act (a), every non-commissioned officer and private soldier who shall be furnished with diet and small beer, where quartered, shall pay for the same 10d. *per diem*; and accounts shall be rendered, and payment thereof made in like manner as is now directed respecting the rates of 6d. *per diem* for cavalry, and 4d. *per diem* for infantry. *§. 1.*

And in case any innholder, or other person, where any such soldier shall be quartered, shall, by virtue of the option now given to him, furnish such soldier with the articles mentioned in lieu of diet and small beer, at the rates prescribed, he shall receive in consideration thereof 2d. *per diem* for each such non-commissioned officer and soldier, instead of furnishing the same *gratis*, which shall be accounted for and paid in manner aforesaid. *§. 2.*

And where any horses shall be quartered, there shall be paid for hay and straw 10½ d. *per diem* for each horse instead of 6d. *per diem*. *§. 3.*

And so much of the mutiny act as relates to the manner of dieting non-commissioned officers and soldiers on a march, or employed in recruiting, is repealed. *§. 4.*

And all non-commissioned officers and soldiers shall be entitled to receive their diet and small beer where billeted at the rates herein-before prescribed, while on the march, and also on and for the day of their arrival at the place of their final destination, and on the two subsequent days, unless either of them be a market day for the place where billeted, or within two miles thereof, in which case, such innholder may discontinue on and from such market day the supply of diet and small beer, and furnish in lieu thereof, the articles specified in the mutiny act at the rate aforesaid. Provided, that if any regiment, troop, company, or detachment, when on the march, shall be halted, either for a limited or indefinite time, at any intermediate place, they shall be entitled to receive their diet and small beer, for such time only as they would be entitled to receive the same after arriving at the place of their final destination. *§. 5.*

(a) This act is to continue in force until 25th March 1796.

And

And all non-commissioned officers and privates employed in recruiting, and the recruits by them raised, shall, while on the march, and for two days after the day of their arrival at any recruiting station, be entitled to the same benefits as is herein-before provided in regard to troops upon the march; but no recruit enlisted after the two days subsequent to the arrival of the party at their recruiting station, shall be entitled to be supplied with diet and small beer at the rate aforesaid, except at the option of the person where quartered. Provided nevertheless, that in case any such recruiting party, with their recruits, shall remove from their station, and after a time shall return to the same place, they shall not be again entitled to such a supply of diet and small beer for such two days as aforesaid, unless the period between their removal and return shall have exceeded 28 days. *s. 6.*

Regulations respecting recruiting parties.

Soldiers having wives or children, may be examined by two justices as to their settlements; and the justices are to give an attested copy of such affidavit to the commanding officer, to be produced when required; which attested copy shall be admitted as evidence as to such settlement.

Having wives or children.

In the case of *K. v. Clayton le Moors, T. 34 G. 3. (a)* it was determined, that no other copy of such examination than that attested by the justices, shall be received in evidence: and it seemed to be doubted, whether the original examination, if produced, would be evidence. *Durnf. and East, 5 V. 704.*

In the case of *K. v. Bowen, H. 33 G. 3.* The defendant, *W. Bowen*, was committed to the house of correction at *Aylesbury*, on a charge made by *A. Ives* of *Eaton* parish for begetting her with child, which child was likely to become a bastard, for refusing to give security to indemnify the parish of *Eaton*, and for refusing to enter into a recognizance to appear at the next sessions, and to abide such order as should be made in pursuance of 18 *Eliz. c. 3.* At the sessions he was ordered to be continued in custody till he gave such security. The said *W. Bowen* was, at the time of his being apprehended, and still is, a private soldier, actually serving in the 29th regiment of foot, and has no property except his pay and subsistence as such soldier; and the said *A. Ives* is not yet brought to-bed.—*Wilson*, in support of the order of sessions, after mentioning the case of *K. v. Archer* as decisive of the present, was

Being the father of a bastard child.

(a) See this case more at large, *ante*, title **Poor**. Removal.

Soldiers.

stopped by the court.—*Lowndes, contra*, in order to distinguish this case from *K. v. Archer*, observed (*inter alia*) that in *K. v. Archer* the child was born and had become chargeable to the parish, and an order made by two justices which had been disobeyed; but here, the woman was not delivered.—*L. Kenyon Ch. J.* in the first place declared, that no *certiorari* ought to have been allowed, but the mode of relief ought to have been by *habeas corpus*. But to avoid further expence to the parties, said, I will consider the question as it appears before us. The case of *K. v. Archer* was decided on grounds perfectly satisfactory to me. There can be no doubt but that incontinence is a crime, and it has always been considered as such in the ecclesiastical courts. Now the clause in the mutiny act which exempts soldiers from arrest in cases where the demand is under 20 l. is clearly confined to civil actions; and the instances put at the bar, in which it was supposed that the court would interfere on behalf of the soldier, are cases of civil actions; a penal action is so far considered as a civil action, that a quaker may be examined on his affirmation as a witness on the trial of it; it is a civil action, although arising on a penal statute. But this proceeding cannot be considered in the nature of a civil action, it is altogether a criminal process; and therefore I am clearly of opinion that the order of the justices is right. Order of sessions confirmed. *Durnf. and East*, 5 V. 156.

Stamps.

BY 35 G. 3. c. 30. After 5th July 1795, the following additional stamp duties shall be paid, (*viz.*)

For *affidavits*, for which 6 d. is payable by 32 G. 2. c. 35. an additional duty of 6 d. And copies of such affidavits, read in court, an additional duty of 6 d.

Original writs, (except where a writ of *capias* issues,) *subpcena*, bill of *Middlesex*, *latitat*, writ of *capias*, *quominus*, *dedimus potestatem*, to take answers, examine witnesses, or appoint guardians, and any other writ, process, or mandate, issuing out of any court holding plea, where the debt or damage amounts to 40 s. (except writs or covenant for levying of fines, writs of entry for common recoveries, and writs of *habeas corpus*,) an additional duty of 1 s.

Agreements,

Stamps.

201

Agreements, for which 6 s. are payable by 23 G. 3. c. 58. an additional duty of 1 s.

Indentures, for which 1 s. is payable by 23 G. 3. c. 58. an additional duty of 1 s.

Probate of wills, or *letters of administration*, for an estate of or above the value of 1000 l. an additional duty of 2 l. 10 s. If of or above 2000 l. an additional duty of 2 l. 10 s. If of or above 5000 l. an additional duty of 5 l. If of or above 10,000 l. an additional duty of 10 l. *s. 1.*

And the exception in 23 G. 3. c. 58. respecting *bonds*, is hereby limited to bonds of 100 l. or under. 35 G. 3. c. 30. *s. 3.*

And by 35 G. 3. c. 63. After 5th July 1795, a stamp duty shall be paid upon *insurances* of ships, goods, or merchandize, for any sum not exceeding 100 l. insured, 2 s. 6 d. and so on progressively for every 100 l. or fractional part, a further duty of 2 s. 6 d.

And upon every *premium* paid, not exceeding 10 s. where the sum to be insured is not above 100 l. 1 s. 3 d. and so on progressively a like duty for every 100 l. or fractional part. *s. 1.*

Vagrants.

IN the case of *K. v. Brooke*, and another, *H. 28 G. 3.* it was adjudged, that the commitment of a vagrant by a justice, for a certain time, as for 14 days, under the vagrant act, is a commitment *in execution*, and that the party is not entitled to be bailed. *Durnf. and East, 2 V. 190.*

Weights and measures.

BY 35 G. 3. c. 102. The justices at every quarter sessions are required to appoint one or more person or persons to examine the weights and balances within their respective counties and divisions; which shall be the high constable, who shall have power to examine within his hundred; or the constable and parish officers of a parish, who shall have the

Sessions to appoint persons to examine weights, &c.

the like power within their parish ; or such other fit person or persons as they shall think fit, who shall have a power of examining within such district as such justices shall appoint.

f. 1.

Which persons are to examine shops, &c. and seize false weights.

And the persons so appointed (having been first sworn duly and faithfully to execute such office) shall, once a month at least, in the day time, enter into the shop, house, outhouse, or other premises near to such shop or house, and into the stall or standing-place of every person who shall sell or retail by weight any wares, provisions, goods, or chattels whatsoever, and search for, view, and examine all the weights and balances therein, and seize those that are not according to the standard, or any false or unequal balance there found, and shall break and destroy the same ; and the person in whose custody the same shall be found shall, upon conviction before one justice, upon view, confession, or oath of one witness, forfeit not exceeding 20 s. nor less than 5 s. as such justice shall think fit, to be levied by distress, to be paid to the treasurer of the county where the offence shall be committed, to be by him applied towards the expences of carrying this act into execution, and the residue (if any) in aid of the county rate.

Penalty for having false weights, &c.

f. 2.

Obstructing inspectors, or refusing to produce weights, &c.

And if any person shall wilfully obstruct, hinder, resist, or oppose any person hereby authorized to examine such weights and balances, in the execution of his office ; or if any such seller or retailer shall refuse to produce his weights and balances, in order to be examined, he shall, on conviction, on oath, before one justice, forfeit not exceeding 40 s. nor less than 5 s. as such justice shall adjudge, to be levied and applied as aforesaid. *f. 3.*

Recompence to inspectors.

And such sessions may allow to persons so appointed a reasonable recompence for their trouble, to be paid out of the county rate. *f. 4.*

Offenders to be punished one way only.

Provided, that persons punished under this act, shall not be otherwise punished by any other law. *f. 5.*

Not to extend to courts leet, &c.

Provided also, that nothing herein shall extend to lessen the authority of any person, bodies politic or corporate, or persons appointed at any court leet for examining weights and balances within their respective jurisdictions. *f. 6.*

Standard weights to be procured.

And for the better carrying this act into execution, the said justices, as soon as conveniently may be, shall purchase, for the use of their respective counties, out of the county rates, proper weights according to the standard in the exchequer, which shall be deposited, for the inspection

of all persons, either with the respective clerks of the peace, or with some proper person in such convenient place within such county as the said justices shall direct, and shall be produced by the person in whose custody they are lodged, (upon reasonable notice,) at such time and place as any person shall, by writing under his hand, require and appoint, on his paying the reasonable charges of producing the same. *f. 7.*

Provided also, that no person shall be prosecuted under this act, unless information on oath be given within one month after the offence is committed. *f. 8.*

In the case of *K. v. Arnold, T. 33 G. 3.* which was a conviction against a buyer of corn by a measure different from the *Winchester* measure. And as the conviction was affirmed, it is here given as a precedent. *Be it remembered that on the 5th day of January, in the year of our Lord 1793, at Huntingdon in the said county of Huntingdon, Robert Booth, of Huntingdon aforesaid in the said county, esquire, cometh before us Lancelot Brown and Henry Poynter Stanley esquires, two of his majesty's justices of the peace in and for the said county, and giveth us to understand and be informed, that Joseph Arnold, of Eaton Socon in the county of Bedford, yeoman, after the 25th day of March, in the year of our Lord 1670, to wit, on the 20th day of December, in the year of our Lord 1792, at the parish of St. Neots in the said county of Huntingdon, did unlawfully buy of and from one William Peters, a certain quantity of wheat, containing divers, to wit, fifteen bushels, in a different manner than by any bushel or measure agreeable to the standard marked in his majesty's exchequer, commonly called the Winchester measure, containing eight gallons to the bushel, and no more or less, contrary to the form of the statute in that case made and provided; whereby, and by force of the statute in that case made and provided, the said Joseph Arnold hath incurred the several forfeitures and penalties thereunto annexed. And thereupon afterwards, on the 12th day of January, in the said year of our Lord 1793, the said Joseph Arnold being duly summoned to answer the charge aforesaid, personally appears for that purpose at Huntingdon aforesaid in the said county, before us the said justices, and having heard the said information, and being asked if he can say any thing for himself why he should not be convicted of the premises above charged upon him, the said Joseph Arnold admits that he the said Joseph, on the 20th day of December, in the year of our Lord 1792, at the parish of St. Neots aforesaid, in the county aforesaid, did buy of the said William Peters*
the

Informations to be within a month.

Selling corn by any other than the Winchester measure is illegal.

*the said quantity of wheat in the said information mentioned, at and for the price or sum of 3l. 19s. 6d; but the said Joseph Arnold further says, that he is not guilty of the said offence charged upon him in and by the said information; and thereupon the said Joseph Arnold is asked by us the said justices if he has or can produce any evidence to shew that he bought the said wheat by any bushel or measure agreeable to the standard marked in his majesty's exchequer, commonly called the Winchester measure, but the said Joseph doth not offer any evidence touching the premises, nor doth he require any time for that purpose: Whereupon it appearing to us the said justices that the said Joseph Arnold is guilty of the premises charged upon him in and by the said information; therefore it is adjudged by us the said justices, that the said Joseph Arnold is convicted, and is hereby accordingly convicted by us, of the offence charged upon him as aforesaid; and we do further adjudge that the said Joseph Arnold hath, for his said offence, forfeited the sum of 3l. 19s. 6d. being the value of the said wheat so bought by him as aforesaid, to be applied and distributed according to law; and we do also adjudge that the said Joseph Arnold hath forfeited, for his said offence, the further sum of 40s. to be applied and distributed according to law. And we do further adjudge, that the said Joseph Arnold do forthwith pay to the said Robert Booth the sum of 12s. for the costs in and about the premises. In witness whereof we have to this record of conviction set our hands and seals, at Huntingdon aforesaid in the said county, this 12th day of January, in the year of our Lord 1793.—*Sellon took several objections to this conviction. 1st, The defendant is convicted in 40s. besides the value of the corn; whereas he is only liable to the latter penalty inflicted by 22 and 23 C. 2. c. 12. The first act, 22 C. 2. c. 8. only affects the seller. 2dly, The quantity of corn bought is not sufficiently ascertained, nor is any price fixed on it in the information. 3dly, The offence is charged to be contrary to the statute; whereas if the defendant be liable to both the penalties, it is contrary to two statutes. 4thly, The defendant is adjudged to pay costs; whereas none are given by the statute.—*Lens contra*, after referring to the 18 G. 3. c. 19. which enables justices to give costs in their discretion, was stopped by the court.—*L. Kenyon Ch. J.* I am sorry that the obstinacy of the farmers, in some parts of the kingdom, has partly defeated the provisions of the statutes of C. 2. because, after the case of *K. v. Major* was decided, we had an opportunity of knowing, from the grand juries in different counties, that that decision gave great satisfaction.

tion. In order to decide this case, we have only to look at the very words of the stat. 22 and 23 C. 2. which expressly subjects the buyer to both the penalties; for it is thereby enacted, that the buyer shall forfeit and lose, besides the penalty of the former act, all corn bought, &c.; that is, he is to forfeit the value of the corn, in addition to the penalty of 40 s. imposed by the former act. Nor is there any objection in saying that this forfeiture is an offence against the form of the statute; for all that respects the buyer is prohibited by 22 and 23 C. 2. On reading over the case at first, I thought that the objection intended to be taken, was that the evidence did not support the charge; but I observe, that the proof of buying, according to the regulations of the statute, is, by s. 3. thrown on the defendant.—*Ashhurst J.* concurred.—*Buller J.* The statute 22 and 23 C. 2. c. 12. instead of saying expressly that the buyer shall be liable to the penalty of 40 s., and to a forfeiture of the corn so bought, has said the same thing impliedly; for it says that he shall forfeit and lose, besides the penalty of the former act, (which is a penalty of 40 s.) the corn so bought, &c. With regard to the objection, that the quantity is not sufficiently ascertained, an information before two magistrates need not be more particular than an information filed in this court; and in the latter case, an allegation that the defendant “bought a certain quantity of wheat, containing, to wit, fifteen bushels,” would be sufficiently certain; and here the evidence has particularized it. *Per Cur.* Conviction affirmed. *Durnf. and East, 5 V. 353.*

Woolcombers.

BY 35 G. 3. c. 124. Every person who shall have served an apprenticeship to the trade of a woolcomber, or is by law entitled to exercise the same, and also his wife and children, may set up and exercise such trade, or any other trade or business which they are apt and able for, in any town or place, without molestation by reason of using such trade; and shall not, during the time they exercise such trade, be removable to their place of settlement, until they become actually chargeable. And if any such woolcomber or his wife or child shall be prosecuted for exercising any such

May set up trades.

Not removable until chargeable.

such trades, on their making it appear that they have served a legal apprenticeship to the said trade of a woolcomber, or is the wife or child of any person who has served such apprenticeship, shall, upon the general issue pleaded, be found not guilty, and shall have double costs.
f. 1.

May be summoned to make oath of their settlements.

And two justices, where any such woolcomber or his wife and family shall exercise such trade, may summon every such person before them, and examine them, on oath, concerning the place of their last legal settlement, who shall obey such summons, and make oath accordingly; and such justices shall give an attested copy of such affidavit, so made before them, to the person making the same, in order that he may produce it when required, which attested copy shall be admitted as evidence as to such settlement, before the justices at any sessions; and if such woolcomber, or his wife or child, shall again be summoned to make oath as aforesaid; then, on producing such attested copy, shall not be obliged to take any other or further oath, but shall leave a copy of such attested copy, if required. *f. 2.*

Provided, that this act shall not prejudice the universities. *f. 3.*

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